

**CHARLES V. MASON  
CLERK OF THE CIRCUIT COURT  
FOR THE  
COUNTY OF KING GEORGE**

**REPORT ON AUDIT  
FOR THE PERIOD  
JULY 1, 2008 THROUGH JUNE 30, 2009**





# Commonwealth of Virginia

**Walter J. Kucharski, Auditor**

**Auditor of Public Accounts  
P.O. Box 1295  
Richmond, Virginia 23218**

December 22, 2009

The Honorable Charles V. Mason  
Clerk of the Circuit Court  
County of King George

Board of Supervisors  
County of King George

Audit Period: July 1, 2008 through June 30, 2009  
Court System: County of King George

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court for this Court System and for the period noted above. Our primary objectives were to test the accuracy of financial transactions recorded on the Court's financial management system; evaluate the Court's internal controls; and test its compliance with significant state laws, regulations, and policies.

## Management's Responsibility

Court management has responsibility for establishing and maintaining internal controls and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations. Deficiencies in internal controls could possibly lead to the loss of revenues or assets, or otherwise compromise fiscal accountability.

## Financial Matters

We noted no instances of improper recording and reporting of financial transactions in the Court's financial management system.

## Internal Controls

We noted no matters involving internal control and its operation necessary to bring to management's attention.

## Compliance

The results of our tests of compliance with applicable laws and regulations disclosed instances of noncompliance that are required to be reported.

The Honorable Charles V. Mason  
Clerk of the Circuit Court  
December 22, 2009  
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The issues identified above are discussed in the section titled Comments to Management. Any response and written corrective action plan to remediate these issues provided by the Clerk are included as an enclosure to this report.

We discussed these comments with the Clerk and we acknowledge the cooperation extended to us by the court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK:alh

cc: The Honorable Horace A. Revercomb, III, Chief Judge  
Travis Quesenberry, County Administrator  
Robyn M. de Socio, Executive Secretary  
Compensation Board  
Paul F. DeLosh, Director of Judicial Services  
Supreme Court of Virginia  
Director, Admin and Public Records  
Department of Accounts

## COMMENTS TO MANAGEMENT

### Compliance

The results of our tests of compliance with applicable laws and regulations disclosed the following instances of noncompliance.

#### Report Unpaid Court Debt to the Department of Taxation's Tax Set-Off Program

For the past three years, the Clerk has not reported unpaid Court debt to the Virginia Department of Taxation under the Debt Set-Off Program. Beginning in 2006, the Department of Taxation converted this program from a manual process to an automated process, and neither the Clerk nor any of the court staff has taken the actions necessary to use the automated system.

Section 58.1-521 of the Code of Virginia, requires that all Courts use Debt Set-Off Program to collect unpaid fines and costs. Both the Supreme Court of Virginia and the Department of Taxation have developed processes for accessing the new automated system, Integrated Revenue Management System.

The Clerk should take immediate corrective action that will allow him and his staff to participate in the Department of Taxation Debt Set-Off Program and make every effort to assist in the collections of fees, fines and other costs on behalf of the local government and the Commonwealth of Virginia. Lack of participation greatly undermines the Court's ability to collect unpaid fees, fines and other costs; and results in a loss of revenues to both the local government and the Commonwealth of Virginia.

#### Maintain Proper Financial Transactions

The Clerk of the Court, who is also the General Receiver, co-mingled funds held as the General Receiver in accordance with Section 8.01-582 of the Code of Virginia with the King George Circuit Court funds held for others. The General Receiver or the Circuit Court Clerk normally holds funds separately as required by Code and performs separate accountings.

The Clerk, as General Receiver, improperly uses the Court's accounting system (Financial Management System) to initially track these Funds until he deposits them in the bank. At that time, the General Receiver normally removes the transaction from the Court's accounting system and records it in his or her own records. However, during fiscal year ending June 30, 2009, the General Receiver did not remove the transaction from the Court's accounting system, resulting in \$148,700 of General Receiver funds shown as funds held by the Circuit Court Clerk. To avoid future errors, the General Receiver should immediately discontinue using the Court's financial system, or seek an order from the Judge to have the funds placed under the Control of the Court in accordance with Section 8.01-600 of the Code of Virginia.

The judge could consider either eliminating the General Receiver; having the "Funds Held for Others" accounted for by the Clerk of the Circuit Court; or requiring the General Receiver to maintain a totally separate accounting for these funds.

King George County, Virginia

CHARLES V. MASON, CLERK  
AND  
GENERAL RECEIVER



PHONE: 540-775-3322

*Clerk's Office*  
KING GEORGE COUNTY CIRCUIT COURT  
9483 Kings Highway, Suite 3  
King George, Virginia 22485

December 02, 2009

Linda Gray

Auditor of Public Accounts

3937 Leaksville Road

Luray, VA 11835

In Re: 2009 General Receiver of the Circuit Court Audit

Mrs. Gray,

In response to your November 17, 2009 email requesting that I address the Comments to Management of the General Receiver of the Circuit Court I answer accordingly.

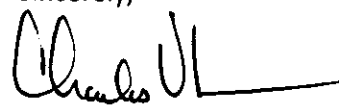
The General Receiver does at all times properly account for funds under his control and there is a designated Microsoft Excel accounting system. While it APA Best Practices may call for General Receiver funds not to be receipted through the court's Financial Management System there is no violation of Code of Virginia. There is at all times transparency in all receipts and disbursements and a clear audit trail of all accounts. General Receiver accounts are held in a separate interest bearing account at SunTrust Bank. While they are receipted through the court's Financial Management System they are held there only briefly before being disbursed pursuant to Court Order or transferred to SunTrust.

- The 3 receipts totaling \$148,700 receipted shortly before the end of FY 2009 and were not immediately transferred to SunTrust but were either disbursed or transferred well within the 60 days required by 8.01-582 Code of Virginia. To reflect a more accurate Annual Report I will review all accounts in transition at the end of the fiscal year and transfer those funds in transition prior to June 30.
- The \$2.14 interest owed for the single transaction not invested within 60 days has been paid by the General Receiver into that account. I accept responsibility for this error.

- Interest for May and June was in fact posted and interest was credited and held in those accounts. The failure of the Annual Report to reflect those transactions was due to either a software glitch or operator error. I do however agree that the Annual Report did not reflect those transactions and accept responsibility for that error.

If you need any additional information or have any questions please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles V. Mason", followed by a long horizontal line extending to the right.

Charles V. Mason, Clerk

# King George County, Virginia



PHONE: 540-775-3322

CHARLES V. MASON, CLERK  
AND  
GENERAL RECEIVER

*Clerk's Office*

KING GEORGE COUNTY CIRCUIT COURT  
9483 Kings Highway, Suite 3  
King George, Virginia 22485

October 13, 2009

Linda Gray

Auditor of Public Accounts

3937 Leaksville Road

Luray, VA 11835

In Re: 2009 King George Circuit Court Audit

Mrs. Gray,

In response to your October 09, 2009 email requesting that I send a corrective action plan to address the non-compliance finding that this Court does not Report Unpaid Debt to the Department of Taxation's Tax Set-Off Program I answer accordingly.

While I agree that his Court has not reported unpaid Court debt to The Virginia Department of Taxation I respectfully disagree that it should be a Compliance Finding as I did attempt to sign up for the IRMS program. The Dept of Taxation refused to allow me to participate as I would not supply them with my personal Social Security #or the SS#s of my staff. I can find no VA Code section that requires me in my capacity as Clerk of the Circuit Court to supply the Dept. of Taxation with my personal SS# n any authority allowing me to require my staff to supply their SS#s. While acting in the capacity of a "Claimant Agency" and in that capacity I am in no way am a debtor . It also appears that the VA Dept of Taxation requirement is in violation of VA Code 2.2-3808. I have referenced VA Code sections 2.2-3808, 58.1-520 and 58.1-521 below.

As a result of the position taken by the VA Dept of Taxation a meeting was held in June 23, 2009 at the VA Dept of Taxation in an attempt to resolve this issue. Present were myself, the VCCA counsel and Janie Bowen and members of her staff. The Department of Taxation indicated that they would review

the SS# issue and contact us in a couple of weeks with their results. I have since contacted their office on 2 occasions and a member of Mr. Dick's staff contacted their office on at least 1 occasion. To date we have had no response. I have made a good faith in an attempt to resolve this issue.

§ 58.1-520. Definitions.

As used in this article:

**"Claimant agency"** means any administrative unit of state, county, city or town government, including department, institution, commission, authority, or the office of Executive Secretary of the Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and institutions shall participate in the setoff program.

**"Debtor"** means any individual having a delinquent debt or account with any claimant agency which obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

§ 58.1-521. Remedy additional; mandatory usage; obtaining identifying information.

A. The collection remedy under this article is in addition to and not in substitution for any other remedy available by law.

B. Except for county, city or town governments, which may utilize the provisions of this article, all claimant agencies shall submit, for collection under the procedure established by this article, all delinquent debts which they are owed.

C. All claimant agencies, whenever possible, shall obtain the full name, social security number, address, and any other identifying information, required by rules promulgated by the Tax Commissioner for implementation of this article, from any person for whom the agencies provide any service or transact any business and who the claimant agencies can foresee may become a debtor under the terms of this article.

§ 2.2-3808. (Effective until July 1, 2009) Disclosure or display of social security number.

A. It shall be unlawful for any agency to require an individual to disclose or furnish his social security account number not previously disclosed or furnished, for any purpose in connection with any activity, or to refuse any service, privilege or right to an individual wholly or partly because the individual does not disclose or furnish such number, unless the disclosure or furnishing of such number is specifically required by federal or state law.

§ 2.2-3808. (Effective July 1, 2009) Collection, disclosure, or display of social security number.

A. No agency shall require an individual to furnish or disclose his social security number or driver's license number unless the furnishing or disclosure of such number is (i) authorized or required by state or federal law and (ii) essential for the performance of that agency's duties. Nor shall any agency require an individual to disclose or furnish his social security account number not previously disclosed or furnished, for any purpose in connection with any activity, or to refuse any service, privilege or right to an individual wholly or partly because the individual does not disclose or furnish



such number, unless the disclosure or furnishing of such number is specifically required by federal or state law.

It is also my position that I am exempt from IRMS pursuant to 58.1-522. The collection through the Department of Taxation's Tax Set-Off Program between 2000 and 2005 were between \$200 to \$800 per year. The administrative costs have exceeded the debt collected and it is thereby economically infeasible.

§ 58.1-522. Participation in setoff program not permitted where debt below certain levels.

If the claimant agency determines that the administrative cost, as defined in the rules promulgated by the Tax Commissioner, of utilizing this article will exceed the amount of the delinquent debt, then such claimant agency shall not participate in the setoff program below such levels determined economically infeasible.

In closing I would like to commend the APA audit team of Frank Pitts, Leslie Pochkar and Ryan Udriet. They at all times were courteous, professional and thorough in dealing with myself and my staff and represent your agency well. If you need any additional information or have any questions please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles V. Mason", with a long horizontal flourish extending to the right.

Charles V. Mason, Clerk