

**REPORT ON
CLERK OF THE CIRCUIT COURT
of the
COUNTY OF SMYTH, VIRGINIA
JIMMY L. WARREN**

**FOR THE PERIOD
APRIL 1, 2004 THROUGH JUNE 30, 2005**

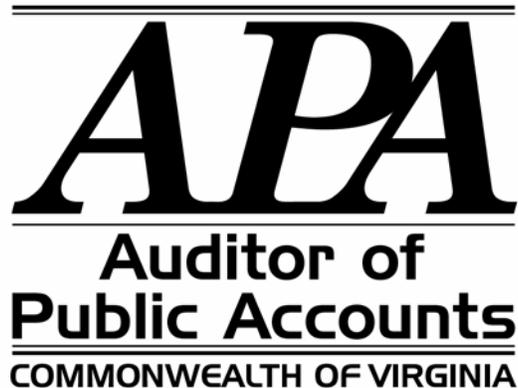


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Commonwealth of Virginia

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

Walter J. Kucharski, Auditor

August 10, 2005

The Honorable Jimmy L. Warren
Clerk of the Circuit Court
County of Smyth

Board of Supervisors
County of Smyth

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of the County of Smyth for the period April 1, 2004 through June 30, 2005.

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. However, our audit was more limited than would be necessary to provide assurance on the internal controls or on overall compliance with applicable laws, regulations, and policies.

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.

Our audit was more limited than would be necessary to provide assurance on internal controls or to provide an opinion on overall compliance with laws and regulations. Because of inherent limitations in internal controls, errors, irregularities, or noncompliance may nevertheless occur and not be detected. Also, projecting the evaluation of internal controls to future periods is subject to the risk that the controls may become inadequate because of changes in conditions or that the effectiveness of the design and operation of controls may deteriorate.

The results of our tests found the Court properly stated, in all material respects, the amounts recorded and reported in the financial management system.

However, we noted certain matters involving internal control and its operation that we consider to be reportable conditions. A reportable condition involves a matter coming to our attention relating to a deficiency in the design or operation of internal controls that, in our judgment, could reasonably lead to the loss of revenues or assets, or otherwise compromise fiscal

accountability. The reportable conditions are discussed in the section titled “Internal Control and Compliance Findings and Auditor’s Recommendations.”

We do not believe these conditions are material weaknesses. A material weakness is a significant deficiency in the design or operation of internal controls that, in our judgment, could reasonably lead to the loss of revenues or assets, or otherwise compromise fiscal accountability and go undetected.

The results of our tests of compliance with applicable laws and regulations disclosed an instance of noncompliance that is required to be reported. This instance of noncompliance is discussed in the section entitled “Internal Control and Compliance Findings and Auditor Recommendations.”

We discussed these comments with the Clerk on August 10, 2005 and we acknowledge the cooperation extended to us by the court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK:slb

cc: The Honorable C. Randall Lowe, Chief Judge
Edwin B. J. Whitmore, III, County Administrator
Bruce Haynes, Executive Secretary
Compensation Board
Paul Delosh, Director of Technical Assistance
Supreme Court of Virginia
Martin Watts, Court Analyst
Supreme Court of Virginia
Director, Admin and Public Records
Department of Accounts

INTERNAL CONTROL AND COMPLIANCE FINDINGS AND AUDITOR'S RECOMMENDATIONS

The following findings are reportable internal control and compliance matters that could lead to the loss of revenues, assets, or otherwise compromise the Clerk's fiscal accountability. The Clerk's response and written corrective action plan to remediate these findings are included as an enclosure to this report.

Improve Accounts Receivable Management

As noted in the last two audits, the Clerk does not establish criminal receivable accounts on the Court's automated accounting system immediately after final disposition of the case as required by the Financial Management System Users Guide, Chapter 4. In five of 20 unpaid criminal cases tested, the Clerk did not set up the receivable for up to 28 days after final disposition. As a result, the Clerk also did not record these cases in the Court's judgment lien indexing system promptly. To maximize the opportunity for the collection of delinquent fines and costs, the Clerk should record the judgment lien information without delay as required by the Code of Virginia, Section 8.01-446.

Properly managing accounts receivable greatly enhances the collection of fines and costs, and the Clerk should ensure that staff properly establish, monitor, and collect receivables.

Properly Assess and Record Criminal Fees

The Clerk and his staff did not assess fees and costs in criminal cases in accordance with the Code of Virginia. We noted assessment errors totaling \$1,097 in six of 20 cases tested. Using the Supreme Court's current fee schedule and when practical, attending periodic regional training meetings can help keep court staff abreast of changes in costs and fees. The Clerk should assess and collect all court costs and fees in accordance with the Code of Virginia. Further, the Clerk should assess and attempt collection of any fees not previously assessed.

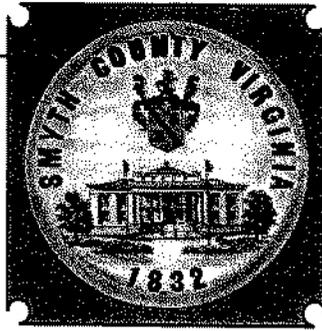
Properly Reconcile Bank Statement

The Clerk did not properly reconcile the Court's bank statements to the Courts' automated accounting system. Specifically, we noted May and June 2005 statements unreconciled and a \$13,241 reconciling item carried forward unresolved for three months. The Clerk should reconcile the bank account promptly after receiving the bank statement as required by the Financial Management System User's Guide and resolve all differences immediately when he reconciles the checkbook and system balances to the bank statement.

Timely and complete reconciliations are an essential component of effective internal controls. If the Clerk is unable to properly reconcile the bank account and promptly resolve reconciling items, he should contact the Supreme Court for assistance and guidance. Allowing reconciling items to go unresolved can lead to errors and irregularities going undetected and increases the risk of loss of funds.

Promptly Collect Taxes and Fees on Wills and Administrations

In four of the 10 estates tested, the Clerk allowed individuals to qualify and act as administrator/executor over an estate before collecting the proper taxes and fees as required by Section 58.1-1715 of the Code of Virginia. Failing to properly assess and collect fees and taxes upon qualification could ~~result in a loss~~ of revenue for the Commonwealth. The Clerk should assess and collect all estate taxes and fees in accordance with the Code of Virginia.



Clerk's Office Circuit Court of Smyth County

Dixie M. Seymour
Chief Deputy Clerk

109 W. Main St., Room 144, Marion, VA 24354
Phone (276) 782-4044 Fax (276) 782-4045

Jimmy L. Warren
Clerk

Tammy James
Angela Robinson
Betty Baldwin
Sheila Blevins
Deputy Clerks

August 29, 2004

Commonwealth of Virginia
Mr. Walter J. Kucharski
Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23218

Dear Mr. Kucharski:

I am pleased to respond to the deficiencies cited during the course of your recent audit of this office for the period of April 2004 through June 2005.

Accounts Receivable Management

As you know, many times the Judge does not sign the order in a timely manner due to his schedule in other courts within the judicial circuit. Also, through no fault of the Judges, we have been late on a number of occasions in entering final orders into the Financial Management System and the Judgment Lien Docket.

We have implemented a new procedure whereby these entries will be made prior to the Judge signing the orders in an effort to prevent the problem on future audits.

The two deputy clerks who handle criminal orders and receivables are well aware of the necessity of accomplishing these tasks on a timely basis.

STANDARD MAIL PERMIT NO. 101
MARION, VA 24354
POSTAGE WILL BE PAID BY ADDRESSEE
FIRST CLASS PERMIT NO. 101
MARION, VA 24354
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Mr. Walter J. Kucharski
Audit Response
Page 2
August 29, 2005

Properly Assess and Record Criminal Fees

I can offer no good explanation for assessing incorrect fees on several criminal cases other than the fact that the deputy clerk was inadvertently using an outdated fee schedule in computing correct costs.

This matter has been corrected and both deputy clerks who work with criminal costs are well aware of this problem and assure me it will not happen in the future.

Properly Reconcile Bank Statements

I concur with the audit findings and recommendations for dealing with such problems. The problem has been pinpointed and corrected as of this writing.

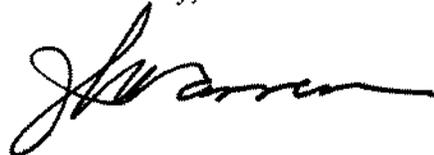
Properly Collect Taxes and Fees on Wills and Administration

For thirty years I have permitted fiduciaries time to transfer money and set up estate accounts prior to paying the probate fee. This was done with the full knowledge that I am personally responsible in the event the fiduciary fails to pay. I feel very strongly that the General Assembly should make some provision in §58.1-1715 of the Code of Virginia to allow a reasonable time to transfer funds, etc..

I have reluctantly abandoned my previous practice and am requiring all fiduciaries to pay prior to being issued qualification certificates. This new policy was implemented approximately sixty day ago.

In closing, I wish to state that the auditor, Mrs. Goodpasture, and the Audit Supervisor, Mr. Johnson, conducted the audit in a most professional and courteous manner. We take no exception to their findings and are most appreciative of the manner in which they were presented.

Sincerely,



Jimmy L. Warren

JLW:dms