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EXECUTIVE SECRETARY

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W.J. KUCHARSKI
EX-OFFICIO MEMBERS

COMMONWEALTH OF VIRGINIA

Compensation Board

P.O. Box 710
Richmond, Virginia 23218-0710

July 20, 2009

MEMORANDUM

TO: Commonwealth's Attorneys

FROM: Robyn M. de Socio, Executive Secretary

RE: FY09 Reporting of Fines and Fees

The Code of Virginia, § 19.2-349, requires the Department of Taxation and the Compensation Board to annually report to the Governor and the General Assembly the total of fines, costs, forfeitures, penalties and restitution assessed, collected, and unpaid and those which remain unsatisfied.

Commonwealth's Attorneys utilizing collection agents. This correspondence is copied to collection agents. The Compensation Board recommends that collection agents forward to the Commonwealth's Attorney the Collection Form (# 1) completed with information on the assessment and collection of delinquent fines and fees.

All Commonwealth's Attorneys. Please review the documents linked to this email at http://www.scb.virginia.gov/forms/cas_fines_and_fees_packet.pdf and complete with your signature, date, printed name and locality:

1. FY09 Collection of Fines and Fees Form and Instructions (July 1, 2008 to June 30, 2009) completed and forwarded to you from your collection agent;
2. FY09 Collection of Restitution by Commonwealth's Attorneys (July 1, 2008 to June 30, 2009);
3. FY10 Policy Statement for Fines and Fees: Commonwealth's Attorney;
4. FY10 Election for Collection Method of Fines and Fees: Commonwealth's Attorney;
5. Supreme Court Guidelines and Model Form Contract for the Collection of Unpaid Fines, Costs, Forfeitures, and Penalties by Private Contractors (dated January 14, 1999); and
6. Code of Virginia, § 19.2-349.

All Commonwealth's Attorneys. Please note that information regarding restitution has been moved to a separate form. As collection agents do not handle restitution, all Commonwealth's Attorneys must complete and submit the separate restitution form.

Fax all four (4) completed forms to Joe Kimec at (804) 371-0235 not later than Friday, August 14, 2009. A fax cover sheet has been provided for your convenience. If you have any questions or need additional information, please call or email Lisa Carson at (804) 225-3443 or lisa.carson@scb.virginia.gov.

If you fail to submit this data, the Compensation Board's report to the General Assembly will indicate a "did not report" status for your locality.

Thank you for your assistance.

cc: Charlene Rollins, Customer Service Manager, Compensation Board
Lisa J. Carson, Senior Policy Analyst, Compensation Board
Oliver Bradshaw, Audit Supervisor, Compensation Board
Joe Kimec, External Auditor, Compensation Board
Karen Helderman, Judicial Systems, Auditor of Public Accounts
Robert Harris, Director, Commonwealth's Attorneys' Services Council
Joel Branscom, Acting President, Virginia Association of Commonwealth's Attorneys
Neil S. Vener, Incoming President, Virginia Association of Commonwealth's Attorneys
Kathy Lohr, Department of Taxation
Marita Winks, Department of Taxation
Karl Hade, Supreme Court of Virginia
Paul Burton, City Attorney, City of Hampton
David Zobel, Huff, Poole, and Mahoney
Margaret Zimmerman, Old Dominion Recovery, LLC
Kim McNeil, E-Recovery Solutions
Cantor and Cantor
David S. Hudson
Fines Management, LTD
Wallace S. Covington, III
Glasser and Glasser
Roland W. Dodson, LTD
Quadros and Associates
Parrish and Lebar

FY09 Collection of Fines and Fees Form

Pursuant to § 19.2-349, Code of Virginia, Commonwealth's Attorney's Report to the Compensation Board for July 1, 2008 through June 30, 2009

Commonwealth's Attorney for: _____ city/county FIPS Code: _____

COURT	Column A Total Assessments of delinquent fines, costs, forfeitures, and penalties (DO NOT include restitution)	Column B Deleted or removed accounts	Column C PAID accounts as reported by Department of Taxation's Debt Set-Off Program	Column D Net Assessments <i>(A - B - C = D)</i>	Column E Gross Collections of delinquent fines, costs, forfeitures, and penalties collected and deposited in this period (DO NOT include restitution)	Column F Collection Fee	Column G Net Collections <i>(E - F = G)</i>
Circuit	\$	\$	\$	\$	\$	\$	\$
General District	\$	\$	\$	\$	\$	\$	\$
J & DR	\$	\$	\$	\$	\$	\$	\$
Combined	\$	\$	\$	\$	\$	\$	\$
Totals	\$	\$	\$	\$	\$	\$	\$

COURT	FY09 Collection Method Name*	<u>IN-HOUSE Collections ONLY</u>		<p><i>Based on information provided to me by the courts and my collection program, I certify that this report is a true and accurate statement of the total fines and costs collected and deposited by me or on my behalf for the period stated above.</i></p> <p>Date: _____</p> <p>Printed Name: _____</p> <p>Signature: _____</p> <p>*FY09 Collection Methods: (fill in at bottom-left of form)</p> <p><input type="checkbox"/> DEPARTMENT OF TAXATION <input type="checkbox"/> IN-HOUSE PROGRAM <input type="checkbox"/> CITY / COUNTY TREASURER</p> <p><input type="checkbox"/> PRIVATE ATTORNEY (provide name) <input type="checkbox"/> PRIVATE COLLECTION AGENT (provide name)</p>
Circuit		Total from Column F above	\$	
General District		Less: Expenses for collection efforts	\$	
J & DR		Surplus (deficit)	\$	
Combined		Locality / State Split of Surplus	\$	

FY09 Collection of Fines and Fees Form

Pursuant to § 19.2-349, Code of Virginia, Commonwealth's Attorney's Report to the Compensation Board for July 1, 2008 through June 30, 2009

Please **TYPE** information on form. Fill out one form per locality (do not combine data for separate localities).

The Commonwealth's Attorney has discretion to delegate preparation of the fines and fees collection form to the collection agent or an employee of the office, but ultimately the Commonwealth's Attorney is responsible for the content of the form. The Auditor of Public Accounts reviews these forms on an annual basis; therefore, all information used to prepare the form should be kept available.

For General District Court reporting, please combine separate divisions into one general district amount and submit one form.

- Column A:** Enter the total amount of **assessments** for delinquent fines, costs, forfeitures, and penalties during this reporting period (as taken from the Supreme Court's Financial Management System BR022 spreadsheet, "Receivable Balances, Total Sent to Collections, and Collections Ratios", June 2009 report). **DO NOT INCLUDE RESTITUTION ON THIS FORM.**
- Column B:** Enter the amount of **accounts manually removed** by the Clerk of the Court. The Commonwealth's Attorney should approve amounts manually removed. Supporting documentation, including the reason for the removal, should be maintained for auditing purposes.
- Column C:** Enter the amount of **accounts reported as "paid"** by the Department of Taxation's Debt Set-Off program (provided by the Clerk of the Court).
- Column D:** Enter the Subtotal. This subtotal represents **net assessments**. Column A minus Column B minus Column C ($A - B - C = D$).
- Column E:** Enter the total amount of **gross collections** of delinquent fines, costs, forfeitures, and penalties collected and deposited by your office in the reporting period (as provided by the Department of Taxation, your In-House program, Treasurer, private attorney or private collection agent). **DO NOT INCLUDE RESTITUTION ON THIS FORM.**
- Column F:** Enter the **fee for collection services**. If your office is charged a flat fee for collecting fines and fees, enter that amount in this column.
- Column G:** Enter the **net collections** that were deposited to the court. Column E minus Column F ($E - F = G$). Reconcile to the Clerk of the Court's records.

Collection agent to fill out form completely and accurately. Commonwealth's Attorney to print name and provide the date and signature.
Fax to the attention of Joe Kimec, Compensation Board (804) 371-0235, not later than Friday, August, 14, 2009.

FY09 Collection of Restitution by Commonwealth's Attorneys Form

Pursuant to § 19.2-349, Code of Virginia, Commonwealth's Attorney's Report to the Compensation Board for July 1, 2008 through June 30, 2009

Purpose: On May 1, 2009, the Compensation Board convened a meeting of Commonwealth's Attorneys, Circuit Court Clerks, representatives from the Supreme Court of Virginia and Department of Taxation, and a private collection agent to discuss issues of importance involving the annual assessment, collection, and reporting of fines and fees. Restitution, in addition to fines, costs, penalties, and forfeitures are to be reported by Commonwealth's Attorneys, but because restitution is not subject to a collection fee charged by the collection agent restitution should be reported separately from other fines and fees.

Name of Locality: _____

FIPS Code: _____

Collection Method (check one): In-House Department of Taxation Private Agent County / City

A - FY09 **Assessment** of Court-Ordered Restitution of a Sum Certain \$ _____

B - FY09 **Collection** of Court-Ordered Restitution of a Sum Certain \$ _____

C – Please outline your **collection procedures** (practices) for the collection of restitution

Printed Name of
Commonwealth's Attorney: _____

Date: _____

Signature of
Commonwealth's Attorney: _____

**Commonwealth's Attorney: Please fill out form completely and accurately. Print your name, date and sign.
Fax to the attention of Joe Kimec, (804) 371-0235, not later than Friday, August 14, 2009.**

FY10 Policy Statement for Fines and Fees: Commonwealth's Attorneys Form

Policy and Procedure

Code of Virginia Pursuant to § 19.2-349, Code of Virginia, a Commonwealth's Attorney is required to cause proper proceedings to be instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The Commonwealth's Attorney must follow collection guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court in association with the Department of Taxation and Compensation Board.

If the Commonwealth's Attorney does not undertake collection, he shall contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii) enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of Taxation. The Commonwealth's Attorney pays fees to an outside collection agent on a contingency fee basis out the proceeds of the amounts collected.

The Department of Taxation and the Compensation Board shall establish procedures to be followed by court clerks, Commonwealth's Attorneys, other state agencies and any private attorneys or collection agents. The Department of Taxation and the Compensation Board shall report annually to the Governor and the General Assembly the total fines, costs, forfeitures and penalties assessed, collected, and unpaid and those which remain unsatisfied by each circuit or district court.

Policy Prompt payment of fines and fees are ordered by the Court as a form of punishment for an offense committed, as well as a legitimate source of revenue for the locality and the Commonwealth. A Commonwealth's Attorney must take all measures under law to ensure that all fines, costs, penalties, forfeitures, and restitution as ordered by the Court are paid in full.

Procedure A Commonwealth's Attorney must:

- Annually choose a collection method by completing and signing an *Election for Collection Method of Fines and Fees: Commonwealth's Attorney* and return by fax to the Compensation Board; and
- Annually receive assessment and collection totals from his collection agent and file a report with the Compensation Board using the *Collection of Fines and Fees Form*.

Effective Date This policy was effective July 1, 2003 and amended on July 18, 2007. Unless otherwise noted, it shall remain in effect until further amended. Any recommended amendments to this policy shall be communicated to and are subject to review by the Compensation Board.

Certification

I am in compliance with the requirements of § 19.2-349, Code of Virginia, and the Supreme Court Guidelines and Model Form Contract for the Collection of Unpaid Fines, Costs, Forfeitures, and Penalties by Private Contractors, dated January 14, 1999.

Printed Name of Commonwealth's Attorney

Locality

Signature of Commonwealth's Attorney

Date

**Commonwealth's Attorney: Please fill out form completely and accurately. Print your name, date and sign.
Fax to the attention of Joe Kimec, (804) 371-0235, not later than Friday, August 14, 2009.**

FY10 Election for Collection Method of Fines and Fees: Commonwealth's Attorney

In compliance with § 19.2-349, Code of Virginia, I elect the following as the collection method for delinquent fines, costs, penalties, and forfeitures for each court in my locality:

- Column A Indicate if the Department of Taxation, In-House program, city/county Treasurer, private attorney, or private collection agent collects delinquent fines and fees for each of your courts.
- Column B For all collection methods (except the In-House program) please provide month and year of contract or Memorandum of Understanding.
- Column C For all collection methods please provide the collection fee percentage.

FY10			
Court	Collection Method	Contract or MOU	
	A: CHOOSE ONLY ONE PER COURT:	B:	C:
	<ul style="list-style-type: none"> Department of Taxation In-House Program Private Attorney (provide name) Private Collection Agent (provide name) City / County Treasurer 	Contract Date	Fee for Collection Services
	Provide Name:	Month & Year:	Percentage:
SAMPLE	Treasurer - Jane G. Doe	Oct 2004	21%
Circuit			
General District			
Juvenile & Domestic Relations			
Combined			

Printed Name of Commonwealth's Attorney

Locality

Signature of Commonwealth's Attorney

Date

Please forward a copy of the Election of the Collection Method Form to the following:

i. Circuit, District, Juvenile and Domestic Relations Courts of your Locality

ii. Supreme Court of Virginia
100 North Ninth Street
Richmond, VA 23219

iii. Department of Taxation
P. O. Box 2402
Richmond, VA 23218-2402

Commonwealth's Attorney: Please fill out form completely and accurately. Print your name, date and sign. Fax to the attention of Joe Kimec, (804) 371-0235, not later than Friday, August 14, 2009.

FAX

FY09 Fines and Fees

Date:	_____
	(not later than August 14, 2009)
To:	Joe Kimec Compensation Board 102 Governor Street Suite 120 Richmond, VA 23219
Phone:	(804) 225-3407
FAX:	(804) 371-0235
Number of Pages:	<input type="text"/> Including Cover sheet

From:	Commonwealth's Attorney
Name:	_____
Contact Name:	_____
Locality:	_____
FIPS Code:	_____
Phone:	_____
FAX:	_____

To Compensation Board: Contents of FAX includes four (4) completed, dated, and signed forms:

- FY09 Collection of Fines and Fees Form: Report by the Commonwealth's Attorney for July 1, 2008 - June 30, 2009
- FY09 Collection of Restitution by Commonwealth's Attorneys Form: July 1, 2008 – June 30, 2009
- FY10 Policy Statement for Fines and Fees: Commonwealth's Attorney
- FY10 Election for Collection Method of Fines and Fees: Commonwealth's Attorney

Please contact _____ in the office of the Commonwealth's Attorney for questions regarding these forms.

Code of Virginia, § 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of attorneys for Commonwealth; duties of Department of Taxation.

A. The clerk of the circuit court and district court of every county and city shall submit to the judge of his court, the Department of Taxation, the State Compensation Board and the attorney for the Commonwealth of his county or city a monthly report of all fines, costs, forfeitures and penalties which are delinquent more than 30 days, including court-ordered restitution of a sum certain, imposed in his court for a violation of state law or a local ordinance which remain unsatisfied, including those which are delinquent in installment payments. The monthly report shall include the social security number or driver's license number of the defendant, if known, and such other information as the Department of Taxation and the Compensation Board deem appropriate. The Executive Secretary shall make the report required by this subsection on behalf of those clerks who participate in the Supreme Court's automated information system.

B. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The attorney for the Commonwealth shall determine whether it would be impractical or uneconomical for such service to be rendered by the office of the attorney for the Commonwealth. If the defendant does not enter into an installment payment agreement under § [19.2-354](#), the attorney for the Commonwealth and the clerk may agree to a process by which collection activity may be commenced 15 days after judgment.

If the attorney for the Commonwealth does not undertake collection, he shall contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii) enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of Taxation, upon such terms and conditions as may be established by guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court with the Department of Taxation and the Compensation Board. If the attorney for the Commonwealth undertakes collection, he shall follow the procedures established by the Department of Taxation and the Compensation Board. Such guidelines shall not supersede contracts between attorneys for the Commonwealth and private attorneys and collection agencies when active collection efforts are being undertaken.

The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act (§ [58.1-520](#) et seq.). A local treasurer undertaking collection pursuant to an agreement with the attorney for the Commonwealth may collect the administrative fee authorized by § [58.1-3958](#).

C. The Department of Taxation and the State Compensation Board shall be responsible for the collection of any judgment which remains unsatisfied or does not meet the conditions of § [19.2-354](#). Persons owing such unsatisfied judgments or failing to comply with installment payment agreements under § [19.2-354](#) shall be subject to the delinquent tax collection provisions of Title 58.1. The Department of Taxation and the State Compensation Board shall establish procedures to be followed by clerks of courts, attorneys for the Commonwealth, other state agencies and any private attorneys or collection agents and may employ private attorneys or collection agencies, or engage other state agencies to collect the judgment. The Department of Taxation and the Commonwealth shall be entitled to deduct a fee for services from amounts collected for violations of local ordinances.

The Department of Taxation and the State Compensation Board shall annually report to the Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and unpaid and those which remain unsatisfied or do not meet the conditions of § [19.2-354](#) by each circuit and district court. The report shall include the procedures established by the Department of Taxation and the State Compensation Board pursuant to this section and a plan for increasing the collection of unpaid fines, costs, forfeitures and penalties. The Auditor of Public Accounts shall annually report to the Governor, the Executive Secretary of the Supreme Court and the General Assembly as to the adherence of clerks of courts, attorneys for the Commonwealth and other state agencies to the procedures established by the Department of Taxation and the State Compensation Board.