

COMMISSIONER OF ACCOUNTS  
CIRCUIT COURT OF HENRICO COUNTY

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Dear Foreclosure Trustee:

Since my appointment as Commissioner of Accounts for Henrico County, a senior auditor has audited, and I have reviewed, many foreclosure accountings, and unfortunately a substantial number of those accounts have been returned "disapproved". I am certain it is aggravating to you to receive a disapproved account, but it is even more disconcerting for us to have to disapprove these accounts for errors which are repeated over and over again.

So that you will be advised as to our requirements, and as a step toward improving the quality and accuracy of future foreclosure accountings submitted, I offer the following observations and comments:

1. We audit what you send with the initial account. We do not call for missing documents or to correct errors in the account, but approve or disapprove the account based on what you initially send.
2. A disapproved accounting requires the filing of a supplemental accounting correcting **all deficiencies** listed in our report to the Court, **within 90 days** of filing with the Court.
3. A supplemental accounting must be accompanied by a fee to the Commissioner as stated in the letter accompanying the disapproved account, plus a clerk's filing fee. No report will be issued and filed with the Court without the payment of the costs.
4. If a supplemental account fails to correct all deficiencies, another "disapproval" is reported to the Court, with the requirement of yet another supplemental account, Commissioner's fees and clerk's fees.
5. Common errors resulting in a disapproval include:
  - a. Failure to pay and/or provide proof of payment of real estate taxes through the date of sale;

- b. Failure to pay and/or provide proof of payment of Henrico County water and sewer liens docketed before the date of sale;
- c. Absence of the original or a copy of the recorded deed of trust;
- d. Lack of the original note or lost note affidavit;
- e. Failure to provide the original advertisement certificate and/or evidence of payment of the advertising bill;
- f. Showing the trustee's commission as "attorney's fees" instead of "commission to trustee";
- g. Failure to provide an invoice and receipt for any attorney's fees.

Additional policies of which you should be aware include the following:


- a. Accounts **must be filed within 6 months after the sale date**. A filing received one day later is late and no commission will be allowed by statute;
- b. Extensions of the filing deadline will be granted only in the most extraordinary circumstances and never after the deadline. Extensions may be granted **only by the Commissioner of Accounts and must be in writing**.
- c. When a forfeiture or disallowance of trustee's commission occurs, the Commissioner will not approve an entry of attorney's fees in the place of disallowed commissions.
- d. Attorney's fees submitted under any accounting shall be accompanied by an itemized invoice and receipt or cancelled check from the attorney/trustee, or will be disallowed.
- e. The Henrico County Commissioner of Accounts is using the **Special Commissioner's compensation schedule** set forth in Section 8.01-109, Code of Virginia, (1950), as amended, as evidence of "reasonable compensation" **in the absence of a specific allowance contained in the deed of trust**. If you are requesting a commission in excess of that statutory standard which is not specifically provided for in the deed of

trust, justification in support of a commission in excess of fees allowed by Section 8.01-109 must be submitted with the account for the Commissioner's consideration.

f. A postage prepaid return addressed envelope must accompany your account for the return of your documents.

I have attempted to make the above suggestions and observations in a constructive manner and hope you will find them so. Otherwise, I'm afraid it will be business as usual with continued frustration to all concerned.

Very truly yours,



Edwin A. Bischoff  
Commissioner of Accounts