



STATE OF FLORIDA
CHIEF FINANCIAL OFFICER
ALEX SINK

March 30, 2010

The Honorable Charlie Crist
The Capitol
Tallahassee, FL 32399

Re: Clerk of Court Trust Fund

Dear Governor Crist:

Earlier this month, I wrote to you, the President of the Senate and the Speaker of the House regarding my concern that a deficit will occur in the Clerk of Court Trust Fund (the "Trust Fund") by the close of the current fiscal year unless action is taken by the Florida Legislature. I enclose a copy of my March 2, 2010 letter to you for your reference.

Ultimately, it is your duty, as the chief budget officer, to ensure that revenues collected will be sufficient to meet appropriations and that no deficit occurs in any state fund. See section 216.221(1), Florida Statutes. Based on the cash flow collections, there is no reasonable scenario in which the Trust Fund will be able to support the Clerk of Courts' approved budget to carry out their constitutional duties, and contribute an eight percent charge to the General Revenue Fund. **If the Legislature does not act to address the significant shortfall in the Trust Fund, then I will be obligated to request that you certify a deficit in the Trust Fund, and develop a plan of action to eliminate the deficit.** See Section 216.221(9) and (10), Florida Statutes.

To date, the Clerk of Court Operations Corporation ("CCOC") has not made any payment to the General Revenue Fund of the eight percent service charge due from the Trust Fund for this fiscal year. To assure that the Trust Fund's service charge liabilities due under section 215.20(1), Florida Statutes, would be retired, I proposed on March 2, 2010 to the CCOC a repayment schedule to begin on March 26, 2010. This schedule was based on the Office of Economic and Demographic Research's projection of March 2010 Trust fund revenues totaling \$43,520,108.

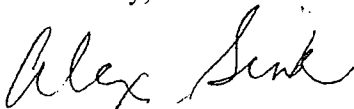
As of March 26, 2010, however, the Trust Fund's balance was only \$36 million, which is insufficient to even cover the statutory appropriation of one-twelfth of each Clerk's approved operational budget for the month of April. See section 28.36(10), Florida Statutes (2009). In light of this shortfall in funds available for Clerk operations, it would be imprudent for the Trust Fund to pay a service charge to the General Revenue Fund this

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month. Given the fact that revenues have fallen short of projections for several months, it is doubtful there will be funds available to pay the service charge without significantly cutting into the Clerks' operational budget for the remainder of the fiscal year.

The Legislature must act now to address this issue. My Chief of Staff and my accounting staff are available to meet with staff from your office so that you can have the most up-to-date information you need in formulating a solution to this matter. I urge you to address the significant shortfall in the Trust Fund, before the Legislature adjourns, so that we can avoid the impending deficit, and the requirement to eliminate the deficit as described in Section 216.221, Florida Statutes.

Sincerely,



Alex Sink
Chief Financial Officer

Enclosure

cc: The Honorable Jeff Atwater
President, Florida Senate

The Honorable Larry Cretul
Speaker, Florida House

CCOC Executive Council

John Dew, CCOC Executive Director

Joe Boyd, General Counsel

Florida Clerk of Courts



STATE OF FLORIDA
CHIEF FINANCIAL OFFICER
ALEX SINK

March 2, 2010

The Honorable Charlie Crist, Florida Governor
The Honorable Jeff Atwater, Senate President
The Honorable Larry Cretul, Speaker of the House of Representatives

Re: Clerk of Court Trust Fund

Dear Governor Crist, President Atwater, and Speaker Cretul:

I am writing to bring to your attention my concern that a deficit will occur in the Clerk of Court Trust Fund by the close of the current fiscal year unless prompt action is taken by the Legislature.

Effective in July of 2009, the Legislature substantially changed the manner in which the court-related budgets of the 67 Clerks of Court were funded. All court-related revenues collected by Clerks at the local level are now required to be transmitted to the Clerk of Court Trust Fund as State revenues. The Clerk of Court Operations Corporation (CCOC) was to fund each Clerk's budget from the Clerk of Court Trust Fund. The CCOC is making a total disbursement from the Trust Fund of approximately \$37.6 million dollars per month to cover the Clerks' court related expenses.

At the beginning of fiscal year 2009-2010, however, the balance in the Trust Fund was insufficient to fund the Clerks' budgets for July 2009. The CCOC had to seek a loan through the Office of Planning and Budgeting (OPB). A \$35 million dollar loan was secured by CCOC in July 2009. This loan must be repaid by the end of the fiscal year.

Compounding the cash flow problem, monthly court-related revenues collected by Clerks have consistently fallen below projections. The Trust Fund has rarely contained enough money to allow the CCOC to make the \$37.6 million monthly budget payment at one time. Instead, the CCOC has been compelled to disburse payments to Clerks in weekly or biweekly installments, depending on the availability of monies within the Trust Fund.

The fact that Trust Fund balances have been barely sufficient to fund the monthly court-related budget payments has made it impossible for the CCOC to pay the 8 percent General Revenue Fund service charge pursuant to Section 215.20, Florida Statutes. This service charge was not imposed on the Trust Fund before the Clerk's court-related budgets were placed under the state appropriations process last July. The CCOC has not made the quarterly service charge payments which have fallen due for Quarter 1 and Quarter 2 of this fiscal year. The unpaid charges total \$17.2 million.

By letter dated February 4, 2010, the Department of Financial Services requested the CCOC submit a payment schedule that would pay some or all of the delinquent service charges. By letter to me dated February 22, 2010, the CCOC declined to offer a payment schedule, and asked the Department not to withdraw any money from the Trust Fund pending a legislative exemption of the Fund from service charge obligations.

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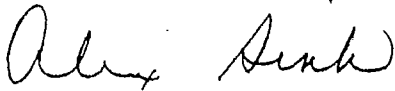
Until the Legislature acts, I do not have the authority to exempt the Clerk of Court Trust Fund from the law and therefore must proceed, in lieu of a plan from the CCOC, with an initial payment schedule based upon the estimated revenue collections and the monthly CCOC calculated disbursement to each Clerk. The total estimated service charge due in the 2009-10 fiscal year is \$26.6 million (this includes actual charges for the first and second quarters and the estimated charge for the third quarter). The fourth quarter service charge of approximately \$10 million will not be due until the 2010-11 fiscal year on August 16, 2010. Based upon the Office of Economic and Demographic Research projections for the coming months that show court-related revenues exceeding the minimum required for the CCOC's monthly budget payments, I have proposed to withdraw \$3 million from the Trust Fund on March 26, 2010, \$5 million from the Trust Fund on May 3, 2010, and \$4 million from the Trust fund on May 28, 2010.

In the absence of legislative action to rectify the Trust Fund imbalance, there is no reasonable scenario under which the CCOC will be able to pay its General Revenue Fund service charge obligations and discharge its loan obligation without a deficit occurring in the Clerk of Court Trust Fund at the end of the current Fiscal Year. I therefore urge the Legislature to act quickly to exempt the Clerk of Court Trust Fund from the 8 percent service charge, which they have historically not paid, and to pass this measure so that it applies retroactively for FY 2009-2010.

Because this Fund is the vehicle for the State's constitutionally-required support of the court system, the Fund should not be treated in the same way as a trust fund supported, for example, with license fees. If the Trust Fund is exempted from payment of the service charges, all surplus revenues above the monthly minimum budget payment can be devoted to payment of the initial loan of July 2009. These revenues appear likely to be sufficient to cover the entire \$35 million dollar loan balance.

Thank you in advance for taking all necessary steps during this Legislative session to ensure that no deficit occurs in the Clerk of Court Trust Fund.

Sincerely,



Alex Sink
Chief Financial Officer

cc: CCOC Executive Council
Mr. John Dew, CCOC Executive Director
Mr. Joe Boyd, General Counsel
Florida Clerk of Courts