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**MEMORANDUM**

**CSC-C 4-2021**

**Subject: Recommendations from the Joint Board of Management – Niagara Courts meeting held on December 17, 2020**

**Date: January 13, 2021**

**To: Corporate Services Committee**

**From: Ann-Marie Norio, Regional Clerk**

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The Joint Board of Management – Niagara Courts, at its meeting held on December 17, 2020, passed the following motion for consideration by the Corporate Services Committee:

That this Board **RECOMMENDS** to the Corporate Services Committee:

1. That Report JBM-C 13-2020, dated December 17, 2020, respecting Court Services Write-Off Recommendations for the period ending October 31, 2020, **BE RECEIVED**; and
2. That the delinquent cases summarized in Table 1 of the Analysis Section of Report JBM-C 13-2020, **BE APPROVED** for write-off and removal from the Integrated Court Offences Network (ICON) system in accordance with the Ministry of the Attorney General (MAG) Provincial Offences Act Write-off Directive and Operating Guideline and the Niagara Region Courts approved write off criteria (POA Write-off Criteria).

A copy of the minutes of the Joint Board of Management – Niagara Courts meeting held on December 17, 2020, and the associated report are attached to this memorandum.

Respectfully submitted and signed by

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Ann-Marie Norio  
Regional Clerk

**THE REGIONAL MUNICIPALITY OF NIAGARA  
JOINT BOARD OF MANAGEMENT - NIAGARA COURTS  
OPEN SESSION**

**JBM 6-2020  
Thursday, December 17, 2020  
Video Conference  
Niagara Region Headquarters  
1815 Sir Isaac Brock Way, Thorold, ON**

Committee: M. Barkway (Lincoln), D. Gibbs (Niagara Region), H. Salter (Board Vice-Chair, St. Catharines), J. Tosta (Welland)

Absent/Regrets: S. McWilliams (Grimsby), C. Lamour (N.O.T.L.), E. Lustig (Niagara Falls)

Staff: B. Brens, Manager, Program Financial Support, B. Hutchings, Program Financial Specialist, K. Lotimer, Legislative Coordinator, M. Vink, Manager, Court Services

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**1. CALL TO ORDER**

H. Salter, Board Vice-Chair, called the meeting to order at 3:30 p.m.

**2. DISCLOSURES OF PECUNIARY INTEREST**

There were no disclosures of pecuniary interest.

**3. PRESENTATIONS**

There were no presentations.

**4. DELEGATIONS**

There were no delegations.

**5. ITEMS FOR CONSIDERATION**

5.1 JBM-C 13-2020

Court Services Write-Off Recommendations for the period ending October 31, 2020

Moved by J. Tosta  
Seconded by D. Gibbs

That Report JBM-C 13-2020, dated December 17, 2020, respecting Court Services Write-Off Recommendations for the period ending October 31, 2020, **BE RECEIVED** and the following recommendation **BE APPROVED**:

1. That the delinquent cases summarized in Table 1 of the Analysis Section of Report JBM-C 13-2020, **BE APPROVED** for write-off and removal from the Integrated Court Offences Network (ICON) system in accordance with the Ministry of the Attorney General (MAG) Provincial Offences Act Write-off Directive and Operating Guideline and the Niagara Region Courts approved write off criteria (POA Write-off Criteria).

**Carried**

5.2 JBM-C 15-2020

2021 Joint Board of Management Niagara Courts – Meeting Dates

Moved by D. Gibbs  
Seconded by M. Barkway

That Correspondence Item JBM-C 15-2020, being a memorandum from M. Vink, Manager, Court Services, dated December 17, 2020, respecting 2021 Joint Board of Management Niagara Courts – Meeting Dates, **BE RECEIVED** and the following recommendation **BE APPROVED**:

1. That the Joint Board of Management Niagara Courts meetings, **BE HELD** on Thursdays at 3:30 p.m. on the following dates in 2021:  
January 28, April 8, August 19, October 21, and December 2

**Carried**

**6. CONSENT ITEMS FOR INFORMATION**

Moved by D. Gibbs  
Seconded by J. Tosta

That the following items **BE RECEIVED** for information:

JBM-C 14-2020  
Court Services COVID-19 Update

JBM 4-2020  
Joint Board of Management - Niagara Courts Meeting Minutes - November 17,  
2020

JBM 5-2020  
Joint Board of Management - Niagara Courts Meeting Minutes - December 9,  
2020

**Carried**

**7. OTHER BUSINESS**

7.1 Vision Zero Update

D. Gibbs, Director, Legal and Court Services, provided an update on the Vision Zero program. Ms. Gibbs advised that a report seeking the endorsement of the draft Inter-Municipal Agreement will be considered by Regional Council at its meeting being held on December 17, 2021. Once endorsed by Regional Council, the agreement will be forwarded to Local Area Municipal Councils for approval.

**8. NEXT MEETING**

The next meeting will be held on Thursday, January 28, 2021, at 3:30 p.m.

9. **ADJOURNMENT**

There being no further business, the meeting adjourned at 3:50 p.m.

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Heather Salter  
Board Vice-Chair

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Kelly Lotimer  
Legislative Coordinator

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Ann-Marie Norio  
Regional Clerk

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**Subject:** Court Services Write-Off Recommendations for the period ending October 31, 2020

**Report to:** Joint Board of Management, Niagara Region Courts

**Report date:** Thursday, December 17, 2020

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## Recommendations

1. That Report JBM-C 13-2020, dated December 17, 2020, respecting the Court Services Write-off Recommendations for the period ending October 31, 2020, **BE RECEIVED**; and
2. That the delinquent cases summarized in Table 1 of the Analysis Section of the Report, **BE APPROVED** for write-off and removal from the Integrated Court Offences Network (ICON) system in accordance with the Ministry of the Attorney General (MAG) Provincial Offences Act Write-off Directive and Operating Guideline and the Niagara Region Courts approved write off criteria (POA Write-off Criteria).

## Key Facts

- In February 2008, the Ministry of the Attorney General (MAG) released a *Provincial Offences Act Write-Off Directive and Operating Guideline* document which provides municipalities with the authority to establish write-off criteria for delinquent cases deemed uncollectible.
- Staff reported on this issue in report JBM 02-2008 dated September 25, 2008 and pursuant to the MAG directive, the Joint Board of Management and Regional Council approved the POA Write-off Criteria for delinquent Provincial Offences deemed uncollectible (Appendix I).
- Writing off these fines will reduce the overall amount for outstanding defaulted receivables for Court Services. These cases would be written off for accounting purposes only and will not absolve a convicted offender from the requirement to pay a fine, as debts to the Crown are owed in perpetuity.

## Financial Considerations

1161 delinquent cases valued at \$915,024.88 have been identified for write-off for the period November 1, 2019 to October 31, 2020.

Revenue from fines is recorded by the Region only when it is collected (on a cash basis rather than an accrual basis). The receivable is set up in the Integrated Court Offences Network (ICON) system, but no receivable is set up in the Region's financial statements. Writing off these fines will reduce the overall amount for outstanding defaulted receivables for Court Services in ICON; however, there is no impact to the local area municipalities in terms of the net revenue distribution as these cases will be written off for accounting purposes only.

Such write-offs do not absolve a convicted offender from the requirement to pay a fine, as debts to the Crown are owed in perpetuity.

## **Analysis**

Each fine that meets the criteria for write-off is thoroughly investigated to make sure there are no options to collect the fines such as garnishing wages, writs or adding the fine to municipal tax roll.

Each month the Integrated Court Offences Network (ICON) system generates a list of cases that have been identified as meeting the criteria listed in **Appendix I**. At the end of the year, all of the monthly reports are compiled to create the write-off report. The electronic record of the delinquent case is removed from ICON, however all original source documents are retained by the court office in accordance with MAG's directive. If funds are received on a delinquent fine that has been previously written off, the case is written back on and the payment accepted.

Cases under the "Deceased Persons" category are identified through submissions of Proof of Death either to the Court or to the Ministry of Transportation. It should be noted that the Table 1 below provides the number of cases related to deceased persons, as opposed to the number of defendants who are deceased. In this regard for the number of cases proposed for write-off in the current report is 1118, whereas the number of defendants those cases pertain to is 261. In addition the number of cases is not only reflective of fines due in 2020 but rather also reflects delinquent fines with due dates dating back to 1991. The number of cases in this category has been higher in 2019 and 2020 than historically in part due to a technology change at MTO whereby vehicle plate and drivers licence databases were consolidated (resulting in increased numbers of cases being identified for example when seeking plate denials as a collections enforcement tool). In addition as part of the Region's enhanced collections strategy, a large volume of older delinquent cases have been assigned to collection agencies for more proactive enforcement which has resulted in receipt of a larger

number of notifications of deceased persons than previous years. Further detail regarding the deceased persons category is provided in Table 2 below.

All cases included in Table 1 below of this report have been investigated and none qualify for further collections activity. Staff submits these cases in accordance with the Ministry of the Attorney General (MAG) Provincial Offences Act Write-Off Directive and Operating Guideline and the Niagara Region Courts approved write-off criteria (“POA Write-off Criteria”).

**Table 1: Summary of Cases Recommended for Write-off:**

| <b>2020 COURT SERVICES WRITE-OFF SUMMARY<br/>For the period November 1st, 2019 to October 31, 2020</b> |                     |                     |
|--|---------------------|---------------------|
| <b>Write-off Category</b>  | <b>No. of Cases</b> | <b>Dollar Value</b> |
| Deceased Person (DP)   | 1118                | \$807,871.36        |
| Under Payment (UP)   | 37                  | \$178.03            |
| POA Write-off – Unable to Enforce (PW)   | 2                   | \$330.00            |
| Company in Default – Bankrupt, Insolvent (CD)  | 4                   | \$106,641.49        |
| <b>TOTAL</b>   | <b>1161</b>         | <b>\$915,024.88</b> |

**Table 2: Summary of Deceased Person Category included in Write-off Summary:**

| <b>Fine Due Date</b>                   | <b># of Cases</b> | <b>Dollar Value</b>  |
|--|-------------------|----------------------|
| APR 1991 to JAN 28 2001 (Pre-Transfer) | <b>76</b>         | <b>\$ 81,805.09</b>  |
| JAN 29 2001 to DEC 31 2011             | <b>572</b>        | <b>\$ 383,594.91</b> |
| 2012 to 2017                           | <b>410</b>        | <b>\$ 290,996.36</b> |
| 2018-2019                              | <b>53</b>         | <b>\$ 41,900.00</b>  |
| Up to Oct 31, 2020                     | <b>6</b>          | <b>\$ 9,255.00</b>   |
| Deceased before due                    | <b>1</b>          | <b>\$ 320.00</b>     |

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|                         |             |                     |
|-------------------------|-------------|---------------------|
| <b>Total Cases</b>      | <b>1118</b> | <b>\$807,871.36</b> |
| <b>Total Defendants</b> | <b>261</b>  |                     |

**Alternatives Reviewed**

None

**Relationship to Council Strategic Priorities**

N/A

**Other Pertinent Reports**

- JBM 02-2008 POA Write-off Criteria for delinquent Provincial Offences deemed uncollectible dated September 25, 2008

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**Prepared by:**

Jackie Foley  
Supervisor, POA Collections  
Corporate Services

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**Recommended by:**

Miranda Vink  
Manager, Court Services  
Corporate Services

*This report was prepared by Jackie Foley, Supervisor, POA Collections and reviewed by Miranda Vink, Manager, Court Services.*

**Appendices**

Appendix 1          Write-Off Recommendations Criteria

| ICON Code | Write-off Category  | Write-off Criteria   | Comments  |
|-----------|---|--|---|
| UP        | Under Payment   | Case balance of \$25.00 or less  | Small balances/Administrative Fees  |
| DP        | Deceased Person   | Satisfactory proof of death – not applicable when case is secured by a Writ of Seizure and Sale  | Satisfactory proof includes:<br><ol style="list-style-type: none"> <li>1. Funeral Director's Death Certificate, or</li> <li>2. Government issued Death Certificate, or</li> <li>3. Notification of death from MTO/enforcement agency, or</li> <li>4. Copy of newspaper obituary.</li> </ol>   |
| SA        | Signed Affidavit  | Requires statutory declaration by the Offender as to payment and payment details   | Requires investigation and approval from the Supervisor, POA Collections  |
| CD        | Company in Default (Bankrupt, Dissolved, Inactive)  | Requires satisfactory proof of dissolution, inactive status or bankrupt corporation  | Satisfactory proof includes:<br><ol style="list-style-type: none"> <li>1. Articles of Dissolution, or</li> <li>2. Notice of Bankruptcy, or</li> <li>3. Ministry notification that the corporation is inactive/cancelled.</li> </ol>   |
| PW        | POA Write-off Unable to Enforce   | Requires satisfactory proof that the case is unenforceable, that the charging document cannot be located for enforcement or supervisor approval obtained     | Applies to cases <b>over 2 years past due</b> :<br><ol style="list-style-type: none"> <li>1. Where the charging document does not contain a date of birth or address, or</li> <li>2. When the Offender is not a legal entity, or</li> <li>3. Where the charging document cannot be located for enforcement, or</li> <li>4. Where technical issues with ICON prevent the case from completing once payment has been satisfied</li> </ol> |
| PW        | POA Write-off Deemed Uncollectible  | N/A  | Applies to aged cases (over six yrs. Past due) once all reasonable collection efforts have been exhausted and the case is deemed uncollectible.   |
| CW        | Final Write-Off Code (Approval Obtained)  | CW code indicates that appropriate approval from JBM, Treasurer (and where applicable), Corporate Services Committee and Regional Council has been obtained. | CW is the final write-off code. All CW cases will be purged from ICON twice yearly and must be reported to MAG annually.  |
| NOTE:     | Cases may be written-off for accounting purposes only and do not absolve a convicted offender from the requirement to pay a fine as debts to the Crown are owed in perpetuity and never forgiven. |  |   |