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December 12, 2014

Heidi Seelbach, Commissioner of Finance
Dutchess County
22 Market Street
Poughkeepsie, NY 12601

Report Number: 2014M-293

Dear Ms. Seelbach:

Dutchess County (County) officials are responsible for safeguarding court and trust funds in their care. This responsibility includes establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that resources are safeguarded against loss from unauthorized use or disposition, transactions are executed in accordance with court orders and/or statutory authorization and are properly recorded, appropriate reports are prepared and appropriate corrective action is taken in response to audit findings.

Pursuant to the State Constitution, Article V, Section 1 and further authority vested in the State Comptroller by Articles 2 and 12 of the New York State Finance Law (State Finance Law) and Section 42 of the New York State Executive Law, we examined certain records and reports for the County's court and trust funds for the period January 1, 2013 through January 1, 2014.

We discussed the findings and recommendations with County officials and considered their comments when preparing this report. The County's responses are attached to this report in Appendix A. County officials agreed with our recommendations and plan to take corrective action.

Background and Methodology

Pursuant to a court order, certain assets may be provided to the court and then delivered to the County Commissioner of Finance (Commissioner) for safekeeping. Payments made pursuant to court orders commonly involve surplus moneys from foreclosures and contract disputes resulting in a mechanic's lien.¹ These actions are recorded in the County Clerk's office when payments are deposited as required by court order. Additionally, in certain circumstances,² funds from estates are entrusted to the Commissioner for safekeeping by order of the Surrogate's Court. Together,

¹ Security interest in property filed to ensure payment for contracted services rendered on the property

² When the whereabouts of any person entitled to payment from the estate is unknown

the Commissioner, County Clerk and Surrogate's Court must develop sound procedures and processes which, when implemented properly and consistently, provide a system of internal controls to account for and safeguard these funds.

Our objective was to determine whether County officials have established appropriate controls to safeguard and account for court and trust funds. We examined records maintained by the County Clerk, Surrogate's Court and Commissioner for the period January 1, 2013 through January 1, 2014. We interviewed County officials and reviewed relevant financial and court records. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions.

Audit Results

We found that the records maintained by the Surrogate's Court were generally up-to-date and complete, and we did not find any material discrepancies.

However, we found that the County Clerk (Clerk) is not maintaining up-to-date court and trust fund records. New York State County Law requires the Clerk to maintain a record of all moneys and securities paid, transferred or deposited, or ordered to be paid, transferred or deposited to a court. Although the Clerk maintains this record, it is incomplete. One of the five court and trust deposits made to the Commissioner through the Clerk's office in 2013, although properly transferred, was not listed on the Clerk's record. As a result, the Clerk was unable to readily identify all assets ordered to be paid into a court, and his records could not be used to verify that all court-ordered deposits had been properly received and deposited by the Commissioner.

Pursuant to State Finance Law, the Commissioner is required to submit a report on an annual basis to the State Comptroller accounting for all money, securities and other properties deposited to court and ordered into her custody. We found that the Commissioner did not report the condition of all court and trust funds to the State Comptroller as required by law. Although the Commissioner's report on the condition of court and trust funds was correct in total, it did not include detailed descriptions of the projects closed during the 2013 fiscal year. The following actions were not included in the report to the State Comptroller:

Action No.	Date of Origin	Date of Closing	Title or Action	Payment Made Since 12/31/12	Balance as of 12/31/13
2533	01/22/09	03/11/13	WaMu v. S. Gubler	\$926.82	\$0
2534	01/22/09	03/11/13	Argent Mort v. D. Faria	\$2,643.50	\$0
2536	01/28/09	03/11/13	Estate of Mary Booth	\$1,001.88	\$0
2539	02/18/09	03/11/13	Mort Elec v. Pendelton	\$3,068.24	\$0
2544	06/08/09	03/11/13	Dutchess Holding v. Santa Croce	\$1,001.72	\$0
2551	08/07/09	03/11/13	J. Solano v. A. Castro	\$250.35	\$0
2552	09/04/09	03/11/13	HV Credit Union v. McDonald	\$100.02	\$0
2554	10/07/09	03/11/13	Precast Con. v. Dutchess Landing	\$4,695.24	\$0
2555	10/07/09	03/11/13	Cranville v. Dutchess Landing	\$4,143.26	\$0
2562	12/23/09	03/12/13	Country Wide v. Akram et. al.	\$7,175.13	\$0
2565	02/04/10	09/06/13	Estate of D. Reznikoff Wygan	\$16,263.73	\$0
2567	02/09/10	07/01/13	Alicea G. v. Alicea V.	\$41,173.09	\$0
2578	01/26/11	03/05/13	Environmental Testing Lab v. Dapplemer Farm, LLC	\$4,955.92	\$0
2581	07/21/11	04/05/13	Richard E. Berg & Mary V. Berg vs Carlos Gonzalez & Katherine G. Stewart	\$115,051.37	\$0
2582	07/21/11	04/04/13	Richard E. Berg & Mary V. Berg v. Carlos Gonzalez & Katherine G. Stewart	\$10,010.15	\$0
2584	12/20/11	07/25/13	Mid-Hudson HVAC, Inc. v. McHoul Fishkill, LLC	\$19,644.83	\$0
2587	02/09/12		John O'Donnel, derivatively on behalf of DDFM, LLC v. Denise Barnett	\$75,098.36	\$0
2588	04/11/12	09/09/13	Melissa Santigo v. Parker Avenue Xtra, Inc.	\$4,486.85	\$0
2589	05/07/12	04/08/13	Marc Spero v. County of Dutchess & Columbia Drumlin, LLC	\$25,015.60	\$0
2594	02/22/13	08/16/13	MJS Electric, Inc. v. Kanewpo, LLC	\$4,661.70	\$0
2595	03/15/13	05/15/13	US Equities Corp. v. Sakeeya Brickhouse	\$2,457.85	\$0
			Total	\$343,825.61	\$0

Recommendations

1. The County Clerk should maintain an up-to-date court and trust fund register as required by law.
2. The Commissioner should prepare and submit the annual report showing all court and trust moneys in her custody.

We would like to thank County officials and staff for the courtesies and cooperation that were extended to our auditors and encourage County officials to take corrective action.

Sincerely,

Gabriel F. Deyo

cc: Marcus J. Molinaro, County Executive
Brad Kendall, County Clerk
Honorable James D. Pagonos, Judge

APPENDIX A

RESPONSE FROM COUNTY OFFICIALS

County officials' response to this audit can be found on the following pages.

BRADFORD H. KENDALL
COUNTY CLERK



BRYAN F. CRANNA
DEPUTY

SANDRA C. STRID
DEPUTY

COUNTY OF DUTCHESS
OFFICE OF THE COUNTY CLERK

November 21, 2014

Mr. Gabriel F. Deyo
Office of the State Comptroller
110 State Street
Albany, NY 12236

RE: Report Number 2014M-293

Dear Mr. Deyo:

This letter is in response to the draft audit report prepared by your office relating to the court and trust funds deposited and disbursed by the County of Dutchess. Collection and Administration of these funds is a joint responsibility of the County Clerk and the Commissioner of Finance. This response is from the County Clerk and will serve as both the response and corrective action plan of the Clerk's Office. The Commissioner of Finance will submit a separate response from her office.

Finding:

"One of five court and trust deposits made to the Commissioner of Finance through the Clerk's office in 2013 was not listed on the Clerk's record."

Response:

Payments into court are made to the Clerk's office and then promptly transmitted to the Commissioner of Finance. Upon transmittal the Commissioner acknowledges through a written receipt. That receipt is then docketed in the appropriate case and the receipt is added to the case file. The payment is then manually docketed in the Court and Trust Fund Ledger book.

In the case of the deposit in question, all steps were completed except the manual docketing in the Court and Trust Fund Ledger. It is important to note that at no time were monies unaccounted for or missing. Further, the deposit was recorded properly in the case file.

Corrective Action:

As a result of the Comptroller's audit we have manually docketed the omitted deposit in the Court and Trust Fund Ledger book against the relevant parties. Additionally we have directed staff that all payments into court must be docketed in the Court and Trust Fund Ledger as well as in the relevant case file.

Finding:

As a result, the Clerk was unable to readily identify all assets ordered to be paid into court and his records could not be used to verify that all court-ordered deposits had been properly received and deposited by the Commissioner.”

Response:

This finding is accurate only in so far as it relates to the manual Court and Trust Fund Ledger. AS previously mentioned, the payment into court was received and transmitted to the Commissioner of Finance in a timely manner. Written receipt of payment by the Clerk and the Commissioner was executed in triplicate with one receipt returned to the payee, one remaining with the Commissioner and one receipted docketed and filed in the case file. At no time were monies unaccounted for.

Additionally, it is not the responsibility of the Clerk to verify that the Commissioner has deposited the funds.

Thank you for the opportunity to respond to your draft audit and for your suggestions for improving the functionality of our office.

Sincerely:

Bradford H. Kendall
County Clerk

cc: Heidi Seelbach, Commissioner of Finance

MARCUS J. MOLINARO
COUNTY EXECUTIVE



HEIDI SEELBACH
COMMISSIONER

COUNTY OF DUTCHESS
DEPARTMENT OF FINANCE

Mr. Gabriel F. Deyo
Office of the State Comptroller
110 State Street
Albany, NY 12236

December 1, 2014

RE: Report Number 2014M-293

Dear Mr. Deyo:

This letter is in response to the draft audit report prepared by your office relating to the court and trust funds deposited and disbursed by the County of Dutchess. Collection and Administration of these funds is a joint responsibility of the County Clerk and the Commissioner of Finance. This response is from the Finance Office and will serve as both the response and corrective action plan of the Finance Office.

Finding:

"Although the Commissioner's report on the condition of court and trust funds was correct in total, it did not include detailed descriptions of the projects closed during the 2013 fiscal year."

Response:

The activity for the Court & Trust funds for 2013 was accurately recorded in the records kept by the Commissioner of Finance. When the spreadsheet was sent to OSC the Court & Trust Funds it did not include the projects which had been closed during 2013. These projects had no balance as of 12/31/13 and the lines had been hidden when the report was submitted.

Corrective Action:

As a result of the Comptroller's audit the annual Report of the Treasurer of Dutchess County Showing the condition of all Court and Trust Funds' we will include the projects which have been closed during the year.

Thank you for the opportunity to respond to your draft audit and for your suggestions.

Sincerely:

Heidi Seelbach
Commissioner of Finance