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Burt Gulnick, Commissioner of Finance  
Ulster County  
244 Fair Street  
PO Box 1800  
Kingston, NY 12401

Report Number: 2014M-352

Dear Mr. Gulnick

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 and Section 42 of the New York State Executive Law, we examined certain records and reports for Ulster County's court and trust funds for the period January 1, 2013 through January 1, 2014.

### **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.<sup>1</sup> These actions are recorded in the County Clerk's office when payments are deposited as required by court order. Additionally, in certain circumstances,<sup>2</sup> funds from estates are entrusted to the Commissioner for safekeeping by order of the Surrogate's Court. Together, 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.

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<sup>1</sup> Security interest in property filed to ensure payment for contracted services rendered on the property

<sup>2</sup> When the whereabouts of any person entitled to payment from the estate is unknown

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 County Clerk and the Commissioner's office were generally up-to-date and complete, and we noted no material discrepancies.

We found that the Surrogate's Court, however, did not maintain all required records as the Surrogate's Court Clerk did not keep a court and trust fund register.

Pursuant to the Surrogate's Court Procedure Act, the clerk is responsible for keeping a court and trust fund register (Register). The clerk must enter the following information into the Register:

- Reference to any proceeding in which the decree or order directs a deposit of money,
- The date,
- The amount to be deposited,
- The amount that has been deposited,
- Any receipt and
- The name of the person for whom the deposit is made.

The Surrogate's Court Clerk has not kept the required Register since 2003. As a result, the Surrogate's Court Clerk was unable to readily identify all assets ordered to be paid into a court, and the Surrogate's Court Clerk's records could not be used to verify that all court-ordered deposits had been properly received and deposited by the Treasurer.

### **Recommendation**

1. The Surrogate's Court Clerk should ensure that all court and trust fund actions are entered into a Register.

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: Mike Hein, County Executive  
Hon. Mary McMaster Work, Surrogate Court Judge  
Nina Postupack, County Clerk