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Holley Sokolowski
Treasurer, Schuyler County
105 Ninth Street
Watkins Glen, NY 14891

Report Number: 2021-C&T-1

Dear Ms. Sokolowski:

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 or statutory authorization, or both, 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 New York State Finance Law and Section 42 of New York State Executive Law, we examined certain records and reports for court and trust funds of Schuyler County (County) for the period January 1, 2018 through September 30, 2021.

Background and Methodology

Pursuant to a court order, certain assets may be provided to the court and then delivered to the County Treasurer (Treasurer) for safekeeping. Payments made pursuant to court orders commonly involve surplus money from foreclosures and contract disputes resulting in a mechanic's lien.¹ These actions are recorded in the County Clerk's (Clerk) office when payments are deposited as required by court order.

Additionally, in certain circumstances² funds from estates are entrusted to the Treasurer for safekeeping by order of the County Surrogate's Court (Surrogate's Court). These funds should be deposited in an interest-bearing account as required by State Finance Law.³ Together, the Treasurer, Clerk and Surrogate's Court must develop sound procedures and processes that, when

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

³ State Finance Law Section 182

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 established appropriate controls to safeguard and account for court and trust funds. We examined records maintained by the Treasurer, Clerk and Surrogate's Court for the period January 1, 2018 through September 30, 2021. We interviewed County officials and reviewed relevant financial and Surrogate's Court records. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions. The scope of our review does not constitute an audit under generally accepted government auditing standards (GAGAS).

Results

We found that the records maintained by the Treasurer were incomplete and outdated. We found two actions totaling \$20,663 in the Treasurer's custody that were not recorded on the Treasurer's annual report for 2020 that she sent to the State Comptroller's Office.⁴ The money from these two actions was deposited into separate checking accounts instead of interest-bearing savings accounts. Furthermore, the Treasurer did not perform monthly bank reconciliations in a timely manner.

New York State County Law requires the Clerk to maintain a record of all money and securities paid, transferred or deposited – or ordered to be paid, transferred or deposited – into a court. We found that the Clerk maintained a court and trust register as required. However, it was incomplete and outdated.

During our review of the Treasurer's records, we identified four actions that should have been recorded in the Clerk's court and trust register but were missing from the register. We found that the Clerk recorded only foreclosures in the register.

We also reviewed the Surrogate's Court records and found that the Surrogate's Court Clerk was not maintaining appropriate court and trust fund records. Pursuant to the Surrogate's Court Procedure Act, the Surrogate's Court Clerk is responsible for keeping a court and trust fund register (surrogate's register). The Surrogate's Court Clerk must enter the following information into the surrogate's register:

- A reference to any proceeding in which a decree or order directs a deposit of money
- The date of transaction
- The amount to be deposited
- The amount that has been deposited
- Any receipt generated

⁴ Pursuant to New York State Finance Law, county treasurers are required to submit a report on an annual basis to the State Comptroller accounting for all money, securities and other properties deposited to courts and ordered into the courts' custody.

- The name of the person for whom the deposit was made.

Although the Surrogate's Court Clerk maintained scanned copies of all court orders filed in his office, he did not make entries into the surrogate's register to record money ordered to be paid into a court. As a result, the Surrogate's Court Clerk was unable to readily identify all assets ordered to be paid into a court. Also, his records could not be used to verify that all court-ordered deposits had been properly received and deposited by the Treasurer.

We would like to thank County officials and staff for the courtesies and cooperation that were extended to our examiners.

Recommendations

The Treasurer should ensure that all:

1. Court-ordered money in her custody is properly accounted for and reported on her annual report to the State Comptroller.
2. Court-ordered money is deposited in an interest-bearing account and that the interest earned for each action is properly accounted for and recorded.
3. Court-ordered money in her custody is reconciled monthly.

The Clerk should:

4. Maintain an up-to-date court and trust register as required by law.

The Surrogate's Court Clerk should:

5. Ensure that all court and trust fund actions are entered into the surrogate's register.

Sincerely,

Elliott Auerbach
Deputy Comptroller

cc: Ms. Theresa Philbin, County Clerk
Honorable Matthew C. Hayden, Surrogate's Court Judge
Mr. Dan Johnson, New York State Unified Court System, Chief Internal Auditor