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Beverly J. Shields
Delaware County Treasurer
111 Main Street
Delhi, NY 13753

Report Number: 2022-C&T-2

Dear Treasurer Beverly J. Shields:

Delaware 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 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 the findings.

Pursuant to the New York State Constitution, Article V, Section 1 and further authority granted to 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 the County's court and trust funds for the period January 1, 2019 through March 24, 2022.

Background and Methodology

Pursuant to a court order, certain assets may be provided to the court and then delivered to the County Treasurer¹ (Treasurer) for safekeeping. Payments made pursuant to court orders commonly involve surplus money from foreclosures and contract disputes resulting in a mechanic's lien.² These actions are recorded in the County Clerk's office when payments are deposited as required by court order. Additionally, in certain circumstances,³ funds from estates are entrusted to the Treasurer for safekeeping by order of the Surrogate's Court. Together, the Treasurer, 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 established appropriate controls to safeguard and account for court and trust funds. We examined records maintained by the County

1 The day-to-day accounting and reporting for court and trust transactions is handled by the County's Fiscal Affairs Office.

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

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

Clerk, Surrogate's Court and Treasurer's Office. 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. The scope of our review does not constitute an audit under generally accepted government auditing standards (GAGAS).

Results

Pursuant to State Finance Law Section 184, the Treasurer is required to submit a report on an annual basis to the State Comptroller accounting for all money, securities and other properties deposited into court and ordered into her custody.

We reviewed the Treasurer's processes, procedures and records for the receipt and management of court and trust funds. We found that the Treasurer established adequate procedures, maintained appropriate records and properly reported court and trust funds and abandoned property to the State Comptroller as prescribed by statute. We also reviewed the County Clerk's records, found that they were generally up to date and complete and did not find any material discrepancies.

In addition, we reviewed the Surrogate's Court records and found that the Surrogate's Court Clerk (Clerk) did not maintain appropriate court and trust fund records. Pursuant to the New York Consolidated Laws, Surrogate's Court Procedure Act Section 2502, the Clerk is responsible for keeping a court and trust fund register (surrogate's register). The Clerk must enter the following information into the surrogate's register:

- A reference to any proceeding in which the 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, and
- The name of the person for whom the deposit was made.

Although the Clerk maintained copies of all court orders filed in her office, she did not make entries into a surrogate's register to record money ordered to be paid into a court. As a result, there is a risk that the Clerk may be unable to readily identify all assets ordered to be paid into court. Also, her 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.

Recommendation

The Clerk should:

1. Enter all court and trust fund actions into the surrogate's register.

Sincerely,

Elliott Auerbach
Deputy Comptroller

cc: Debra Goodrich, County Clerk
Hon. Michael F. Getman, Surrogate Court Judge
Lisa Weite, Acting Surrogate's Court Clerk
Daniel R. Johnson, New York State Unified Court System, Chief Internal Auditor
Christa M. Schafer, Fiscal Affairs Administrator