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Elaine A. Kloss
Assistant Commissioner & Treasurer

December 18, 2015

Ms. Carmen Maldonado
Audit Director
State of New York
Office of the State Comptroller
59 Maiden Lane, 21st Floor
New York, NY 10038

Re: Controls and Accountability of Court, Trust and Bail Funds Report 2015-F-16

Dear Ms. Maldonado:

In response to your letter dated December 3, 2015 to the New York City Finance Commissioner, Jacques Jiha, we have reviewed your follow-up observations regarding eight recommendations in your April 16, 2014 audit report. We agree with all your observations and we have prepared responses to the eight recommendation observations below.

Recommendation 1

Investigate the differences between CATS ledgers and the financial institution balances and make appropriate corrections. Maintain the documentation to support each error and the necessary corrections.

Status - Partially Implemented

Agency Action: Our review of the monthly bank reconciliations for the cash bail account from May 2014 through May 2015 determined that Finance identified the differences between its book balances and the bank's balance in the 13 months, but did not make the appropriate corrections. After our follow-up's closing conference on October 14, 2015, Finance officials indicated that they have taken corrective action.

Finance Response: We agree with this recommendation. We are identifying and documenting the differences between the book and bank balances on our monthly reconciliations and we are now making the appropriate corrections in our records.

Recommendation 2

Take appropriate action to determine the causes of unallocated interest and develop a plan to fully distribute interest to the accounts.

Status – Implemented

Agency Action: Finance had a plan to fully distribute interest to the Court and Trust accounts. Our review of a random sample of 50 Court and Trust accounts determined the interest was distributed to all accounts sampled in accordance with the plan.

Finance Response: We agree that this recommendation has been fully implemented.

Recommendation 3

Ensure compliance with New York State Civil Practice Law and Rules, section 8010(2) and that the Commissioner of Finance receives the correct fee and that Court and Trust accounts are properly credited for the interest earned from investments.

Status – Implemented

Agency Action: A review of a sample of 15 accounts found that Finance collected the correct fee and interest.

Finance Response: We agree that this recommendation has been fully implemented.

Recommendation 4

Prepare and maintain records that document that the correct amount was posted to each Court and Trust account.

Status – Implemented

Agency Action: We reviewed a sample of 30 Court and Trust accounts from Finance's May 2014 interest allocation report and determined that the correct amounts were allocated and posted.

Finance Response: We agree that this recommendation has been fully implemented.

Recommendation 5

Ensure that all bail cases are properly handled including but not limited to:

- *Timely abandonment of cases and all necessary fees have been withheld before forwarding to the Office of Unclaimed Funds, and*

- *Closing bail cases timely and ensuring that cases which are pending dormancy do not already have a court order issued.*

Status - Partially Implemented

Agency Action - We examined 14 bail cases pending abandonment. Our review determined that four of the cases were not properly handled. In two cases, Finance held cash bail with no activity for more than three years; however, the accounts were not declared dormant. In the other two cases, Finance did not change the accounts' status to abandoned, although they had no activity for more than three years.

Finance Response: We agree with this recommendation. Further, this year during a separate State audit of the abandonment of Court & Trust funds and Police and Hospital funds, the State's legal counsel provided the new guidelines that under Article VI of the Abandoned Property Law (APL) any money paid into the court, which has remained in the hands of the City of New York for three (3) years, is deemed abandoned and reportable to the Office of the State Comptroller. We agree with these new abandonment guidelines and we are taking steps to change our abandonment process. We will modify our Court Assets Tracking System (CATS) database system to abandon cases after three (3) years based on the deposit date. We are confident that after this change has been implemented, we will not have any dormant Cash Bail cases outstanding after three years.

Recommendation 6

Review the five dormant bail cases in this report that were not handled properly (refunds to two open cases with court order and three cases that should not be dormant).

Status – Implemented

Agency Action: Finance processed the refund orders for the two open cases. The other three were reclassified as abandoned, and the funds were sent to the State Comptroller's Office of Unclaimed Funds.

Agency Response: We agree that this recommendation has been fully implemented.

Recommendation 7

Review the practice of withholding incarceration fees from forfeited bail, take action to correct the accounts and discontinue withholding incarceration fees from forfeited bail.

Status – Implemented

Agency Action: Finance provided a legal opinion that it can keep 3 percent from forfeited bail when the final outcome of the case is a guilty verdict or conviction. If the outcome is not

guilty or exonerated, Finance can keep only 1 percent. Thus Finance will continue its practice regarding forfeited bail. We examined a random sample of ten cash bails to determine if the appropriate fee was withheld. In all ten cases, Finance deducted 3 percent based on court orders, which served as evidence of convictions.

Finance Response: We agree that this recommendation has been fully implemented.

Recommendation 8

Prepare and send the AC231 A&B to the State Comptroller each year, as required.

Status - Implemented

Agency Action: Finance prepared and forwarded the AC231 A&B for calendar years 2013 and 2014 to the State Comptroller, as required.

Finance Response: We agree that this recommendation has been fully implemented.

We would like to take this opportunity to thank the members of your audit team for their efforts and contributions to complete this follow-up audit review. We take our fiduciary responsibilities seriously and we appreciate all your recommendations to help us do a better job.

Sincerely,



Elaine A. Kloss

Assistant Commissioner and Treasurer

Cc: Jacques Jiha, Ph.D., Commissioner, Department of Finance
Jeffrey Shear, Deputy Commissioner, Department of Finance
Samuel Mayer, Senior Director of Internal Audit, Department of Finance
George Davis III, Deputy Director of Audit Service, Mayor's Office of Operations