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David Dempsey
Cayuga County Treasurer
160 Genesee Street
Auburn, NY 13021

Report Number: 2024-C&T-5

Dear County Treasurer Dempsey:

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 examination 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, 2021 through June 30, 2024.

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 office when payments are deposited as required by court order. Additionally, in certain circumstances,² 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.

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

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, County Clerk and Surrogate's Court. 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 New York 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 a court and ordered into the Treasurer's custody.

We reviewed the Treasurer's, County Clerk's and Surrogate's Court's processes, procedures and records for the receipt and management of court and trust funds as well as estates in the Treasurer's custody. County officials did not establish appropriate controls to safeguard and account for court and trust funds. There was no reconciliation performed between the Treasurer's, County Clerk's and Surrogate's Court's records.

The Treasurer maintained up-to-date and complete records but did not always properly report court and trust funds to the State Comptroller as prescribed by statute. For 2021 through 2023 the Treasurer reported 12 cases totaling \$93,719, some of which were reported in multiple years. However, in 2022, three cases totaling \$175,940 were excluded from the annual report. The Director of Finance and Deputy Treasurer told us these cases were inadvertently excluded as they were disbursed and closed in 2022 and should have been reported.

New York State County Law Section 530 requires the County 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. Although the County Clerk maintained a computerized court and trust register as required, it did not include two court and trust actions identified in the Treasurer's records. The Deputy County Clerk stated that these two cases occurred before the County Clerk's current computerized register, and they could not provide a report, or other register, that included these cases. Upon our request, the County Clerk was able to provide appropriate supporting documentation for these two cases, including court orders.

We also determined that the records maintained by the Surrogate's Court were up to date and complete and we noted no material discrepancies.

Although not required, if the Treasurer, County Clerk and Surrogate's Court Clerk performed a reconciliation between their records, these errors may have been identified and corrected.

Recommendations

The Treasurer should:

1. Perform an annual reconciliation of court and trust funds with the County Clerk and Surrogate's Court.
2. Ensure annual reports are accurate and all cases are appropriately reported.

The County Clerk should:

3. Ensure a complete court and trust register is maintained as required by law.

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

Sincerely,

Robin L. Lois
Deputy Comptroller

cc: Steve Lynch, County Manager
Brian Scanlan, County Clerk
Honorable Jon E. Budelmann, Surrogate's Court Judge
Haley Brown, Surrogate's Court Chief Clerk
Grace Blowers, Director of Finance
Carol L. Jones, New York State Unified Court System, Chief Internal Auditor