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Kimberly C. L. DeFrank
Orleans County Treasurer
156 S. Main St.
Albion, NY 14411

Report Number: 2024-C&T-6

Dear Treasurer DeFrank:

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 November 1, 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 have 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

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. The records maintained by the Treasurer, County Clerk and Surrogate’s Court were generally up to date and complete. However, we identified one action for \$2,382.66 that was not properly turned over to the State Comptroller (Figure 1).

Figure 1: Schedule of Abandoned Property			
Date of Origination	Abandoned Property Due Date	Title of Action	Amount
4/10/2019	4/10/2023	Virtual Polymer vs. Wizard Works	\$2,382.66

Pursuant to New York State Abandoned Property Law Section 600(1), money that has remained in the hands of the Treasurer for a period of three years, together with all accumulated interest, less the Treasurer’s statutory fees, is deemed abandoned property. The Treasurer should, after public notice, pay all such abandoned property to the State Comptroller by the tenth of April of the next year.

The Treasurer stated that she did not remit the money to the State Comptroller because the action was still pending in court. However, although an action was still pending, the money had been in the Treasurer’s custody for over three years and, therefore, must be remitted to the State Comptroller as required.

We also discussed other minor deficiencies with County officials during our fieldwork.

Recommendation

1. The Treasurer should ensure that all money deemed abandoned property is paid to the State Comptroller in a timely manner.

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

Sincerely,

Robin L. Lois, CPA
Deputy Comptroller

cc: Nadine P. Hanlon, County Clerk
Hon. Sanford A. Church, Surrogate's Court Judge
Jamie Summers, Surrogate's Court Chief Clerk
Carol Jones, Acting Director of Internal Audit Services, Office of Court Administration