



THOMAS P. DiNAPOLI
COMPTROLLER

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER
110 STATE STREET
ALBANY, NEW YORK 12236

GABRIEL F. DEYO
DEPUTY COMPTROLLER
DIVISION OF LOCAL GOVERNMENT
AND SCHOOL ACCOUNTABILITY
Tel: (518) 474-4037 Fax: (518) 486-6479

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Kyle Andrews
Niagara County Treasurer
Philo J. Brooks County Office Building, 1st Floor
59 Park Avenue
Lockport, NY 14094-2740

Report Number: 2015M-228

Dear Mr. Andrews:

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 Niagara County (County) for the period January 1, 2009 through July 14, 2015.

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 moneys 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 for the period January 1, 2009 through July 14, 2015. 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.

Audit Results

We found the records maintained by the Surrogate's Court and County Clerk were generally up-to-date and complete, and we noted no material discrepancies. We also found the Treasurer established adequate procedures, maintained appropriate records and properly reported the condition of court and trust funds to the State Comptroller as prescribed by statute. However, we identified funds that improperly remained in the Treasurer's custody that should have been turned over to the State Comptroller as abandoned property.

Pursuant to New York State Abandoned Property Law, moneys that have remained in the hands of the Treasurer for a period of three years, together with all accumulated interest, less the Treasurer's statutory fees, are 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.

We identified funds from 71 actions totaling \$251,392³ that were not properly turned over to the State Comptroller. The Treasurer and his deputy stated they had not remitted the funds as required because they believed they needed a court order to do so. However, Abandoned Property Law requires these moneys be transferred to the State Comptroller without any further action by the court. The Treasurer agreed to take corrective action and remit the funds as required.

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

Recommendation

1. The Treasurer should ensure that all moneys deemed abandoned property are turned over to the State Comptroller in a timely manner.

³ See Appendix A for a detailed list of the 71 actions.

We would like to thank Niagara County officials and staff for the courtesies and cooperation that were extended to our auditors and encourage County officials to take corrective action.

Sincerely,

Gabriel F. Deyo
Deputy Comptroller

cc: Hon. Matthew J. Murphy, Niagara County Family and Surrogate Court Judge
Hon. Sara Sheldon, Niagara County Family and Surrogate Court Judge
Mr. Wayne F. Jagow, County Clerk
Mr. George Danyluk, New York State Unified Court System, Chief Internal Auditor

APPENDIX A

SCHEDULE OF ABANDONED PROPERTY

Action No.	Date of Origination	Abandoned Property Due Date	Title of Action	Amount
2222	9/25/01	4/10/05	Donald L. Dolson v. Darien Lake Theme Park	\$9,589
2241	9/23/04	4/10/08	Countrywide Home Loans v. T. & C. Bax	\$117
2243	10/14/04	4/10/08	GMAC Mortgage Corporation v. R. & T. Aumer	\$786
2247	12/29/04	4/10/08	Neil Weisbeck v. Martin Hardwood Co., Inc. et. al.	\$284
2249	2/2/05	4/10/09	Estate of M. Fason for Estate of Lillian W. Fason	\$2,169
2251	2/2/05	4/10/09	Estate of M. Fason for Estate of Charles E. Fason	\$2,189
2252	2/2/05	4/10/09	Estate of M. Fason for Estate of James L. Fason	\$2,169
2253	2/2/05	4/10/09	Estate of M. Fason for Estate of Darrell Fason	\$2,169
2255	6/21/05	4/10/09	Citi Mortgage v. David & Barbara Nichols, et. al.	\$1,427
2261	8/18/05	4/10/09	Estate of Mary Ciccone fbo Alfred G. Ciccone	\$1,022
2262	8/18/05	4/10/09	Estate of Mary Ciccone fbo John Pardini	\$573
2263	8/18/05	4/10/09	Estate of Mary Ciccone fbo Michelle Pardini	\$194
2264	8/18/05	4/10/09	Estate of Mary Ciccone fbo Joseph Pardini	\$194
2265	8/18/05	4/10/09	Estate of Mary Ciccone fbo Paula Pardini	\$194
2266	8/18/05	4/10/09	Estate of Mary Ciccone fbo John Ciccone	\$86
2269	11/22/05	4/10/09	Estate of Stephen Madej fbo Sally Madej	\$27,111
2270	11/22/05	4/10/09	Estate of Stephen Madej fbo Patricia Madej	\$27,111
2271	11/28/05	4/10/09	HSBC Mortgage Corp. v. G. & S. Goetz et. al.	\$377
2272	11/28/05	4/10/09	M&T Mortgage Corp. v. Everett J. Wilson, et. al.	\$778
2275	12/29/05	4/10/09	Estate of Joseph H. Thompson fbo Bill Nelson	\$756
2276	12/29/05	4/10/09	Estate of Joseph H. Thompson fbo Tracy Nelson	\$756
2277	12/29/05	4/10/09	Estate of Joseph H. Thompson fbo S. Newton-Elmore	\$756
2278	3/13/06	4/10/10	Lehman Home Equity Trust v. Stephen A. & Sharon L. Chrzanowski	\$2,015
2279	3/13/06	4/10/10	NY State Mortgage v. Bradley & Tammy Brooks	\$8,395
2282	4/24/06	4/10/10	Estate of Ruth I. Reitz	\$1,089
2283	4/24/06	4/10/10	M&T Mortgage Corp. v. Everett J. Wilson	\$476
2284	5/8/06	4/10/10	Bank of NY v. Robert F. & Joan B. Markowski	\$6,621
2286	5/25/06	4/10/10	HSBC Mortgage Corp. v. Rizzo, Eodice & Runge	\$148
2288	8/11/06	4/10/10	NY State Mortgage Agency v. Shawn Mayes, William Mayes	\$633
2290	9/15/06	4/10/10	Washington Mutual Bank v. Michael & Heather Kislack	\$14,102
2291	9/20/06	4/10/10	Estate of Mabel Clerk	\$2,368

Action No.	Date of Origination	Abandoned Property Due Date	Title of Action	Amount
2294	10/25/06	4/10/10	Estate Lois E. Mitchell for Michael Mitchell, Unknown Heir	\$3,610
2297	11/30/06	4/10/10	Deutsche Bank National Trust Co. v. Kenneth & David R. Kiszewski	\$189
2298	11/30/06	4/10/10	Federal National Mortgage Association v. Harold F. Mills, Jr.	\$1,172
3002	1/23/07	4/10/11	Wells Fargo Bank v. David A. Jeffs & NC Dept. of Social Services	\$132
3008	5/26/07	4/10/11	First Niagara Bank f/k/a Lockport Savings Bank v. Rebecca S. Wolf	\$2,357
3009	5/31/07	4/10/11	Estate of Sandra Rudzinski for Mark Rudzinski	\$527
3010	6/5/07	4/10/11	Estate of Richard E. Lambert f/b/o Andria Lambert a/k/a Andria Lambert Davidson	\$1,076
3011	6/20/07	4/10/11	HSBC Bank USA v. Diane P. Phillips, et. al.	\$36
3018	11/29/07	4/10/11	CCO Mortgage Corp v. Randall S. & Wendy Pegan: M&T Bank	\$190
3024	5/9/08	4/10/12	Wells Fargo Bank v. A. Marie & Terrance Little	\$104
3026	8/4/08	4/10/12	Estate of Laura L. Grant for Perry Chapel	\$3,511
3027	8/4/08	4/10/12	Estate of Laura L. Grant for Hazel Chapel	\$3,511
3028	8/4/08	4/10/12	Estate of Laura L. Grant for Stella Chapel	\$3,511
3029	8/4/08	4/10/12	Estate of Laura L. Grant for Victor Chapel	\$3,511
3030	8/4/08	4/10/12	Estate of Laura L. Grant for Campbell Chapel	\$3,511
3031	8/4/08	4/10/12	Estate of Laura L. Grant for Marion Harvey	\$3,511
3032	8/4/08	4/10/12	Estate of Laura L. Grant for Malcom Harvey	\$3,511
3033	8/4/08	4/10/12	Estate of Laura L. Grant for Clint Faling Jr.	\$3,511
3035	10/8/08	4/10/12	HSBC Mortgage Corp. v. Alphonse C. & Joan E. Scibetta	\$170
3038	2/23/09	4/10/13	JP Morgan Chase v. Stephen A. & Mary Lynne Gerhardt	\$4,826
3039	4/2/09	4/10/13	Estate of James Clemens	\$5,653
3040	4/15/09	4/10/13	Estate of Evelyn M. Beeton for Jean E. Batterson	\$1,289
3041	4/15/09	4/10/13	Estate of Evelyn M. Beeton for Vicki Roberts	\$322
3042	4/15/09	4/10/13	Estate of Evelyn M. Beeton for Alma Antram	\$1,289
3043	4/15/09	4/10/13	Estate of Evelyn M. Beeton for William Milks	\$3,222
3044	4/15/09	4/10/13	Estate of Evelyn M. Beeton for Ethel Clugston	\$644
3045	4/15/09	4/10/13	Estate of Evelyn M. Beeton for Marjorie Olson	\$1,289
3046	4/22/09	4/10/13	Estate of Alberta A. Lambert for Robert W. Lambert Jr.	\$500
3047	4/22/09	4/10/13	Estate of Alberta A. Lambert for Andria Lambert	\$500
3048	4/22/09	4/10/13	Estate of Alberta A. Lambert for William R. Lambert	\$500
3050	7/28/09	4/10/13	Estate of Paul Barrett for Robert Barrett	\$5
3051	7/28/09	4/10/13	Estate of Paul Barrett for Paul Barrett Jr.	\$5
3056	6/30/10	4/10/14	Chantelle Dunbar	\$2,715

Action No.	Date of Origination	Abandoned Property Due Date	Title of Action	Amount
3057	7/9/10	4/10/14	Estate of Catherine Williams	\$894
3058	9/8/10	4/10/14	Estate of Elva Crimmins	\$541
3060	9/14/10	4/10/14	PNC Bank v. John & Laura Pazamickas, et. al.	\$7,322
3065	11/4/10	4/10/14	Jack D. Liffiton v. George Mercier, et. al.	\$40,279
3072	5/19/11	4/10/15	Estate of Theresa Schaefer for Angele Kowalski	\$19,805
3073	5/19/11	4/10/15	Jaylin Pryor	\$5,236
3074	6/10/11	4/10/15	Estate of Bernice C. Owen for Sandra L. Henderson	\$251
			Total	\$251,392