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May 2020

Cheryl Mayer  
Treasurer, Wyoming County  
143 N. Main Street  
Suite 210, Government Center  
Warsaw, New York 14569

Report Number: 2020-C&T-2

Dear Ms. Mayer:

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 Wyoming County (County) for the period January 1, 2017 through March 11, 2020.

### **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.<sup>1</sup> These actions are recorded in the County Clerk's (Clerk) office when payments are deposited as required by court order. Additionally, in certain circumstances<sup>2</sup> funds from estates are entrusted to the Treasurer for safekeeping by order of the Surrogate's Court. Together, the Treasurer, 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.

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<sup>1</sup> Security interest in property filed to ensure payment for contracted services rendered on the property

<sup>2</sup> 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, Clerk and Surrogate’s Court for the period January 1, 2017 through March 11, 2020. 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 found that the records maintained by the Treasurer were not complete. We found two actions, totaling \$30,455, in the Treasurer’s custody that were not recorded on the annual report sent to the State Comptroller’s Office as required.<sup>3</sup> Furthermore, the money from these two actions was deposited into the County’s general fund bank account and the interest earned for each action was not properly recorded. The Treasurer told us she did not know these actions should be included on the annual report.

Pursuant to New York State Abandoned Property Law, 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. We identified one action for \$28,204.84 that was not properly turned over to the State Comptroller (Figure 1).

<b>Figure 1: Schedule of Abandoned Property</b>			
Date of Origination	Abandoned Property Due Date	Title of Action	Amount
6/26/12	4/10/16	JP Morgan Chase Bank vs. Jon Bolland II & Polly Urf	\$28,204.84

New York State County Law requires the 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. We found that the Clerk maintains copies of all court orders filed in her office and that she maintains a court and trust register as required. However, it was not up-to-date or complete. The two actions noted above were not recorded in the court and trust register as required. The Clerk told us she was not sure which actions should be included on the court and trust register.

We also reviewed the Surrogate Court’s records. We found that there were currently no open court and trust fund actions involving the Court.

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

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<sup>3</sup> Pursuant to New York State Finance Law, 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 to court and ordered into their custody.

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

### **Recommendations**

The Treasurer should ensure that all:

1. Court-ordered money in her custody is properly accounted for and reported on the annual report to the State Comptroller.
2. Court-ordered money in her custody is deposited into a separate court and trust fund bank account and interest earned for each action is properly accounted for and recorded.
3. Money deemed abandoned property is paid to the State Comptroller in a timely manner.

The Clerk should:

4. Ensure that the court and trust fund register is complete and up-to-date with all actions reported as required by law.

Sincerely,

Elliott Auerbach  
Deputy Comptroller

cc: Ms. Rhonda Pierce, County Clerk  
Honorable Keith Kibler, Surrogate's Court Judge  
Mr. George Danyluk, New York State Unified Court System, Chief Internal Auditor