



August 28, 2014

Carmen Maldonado
Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 William Street, 21st Floor
New York, NY 10038

Re: Final Audit Report on Controls and Accountability of Court and Trust and Cash Bail Funds – Audit #2013-N-1

Dear Ms. Maldonado:

On April 16, 2014, the New York State Comptroller, Division of State Government Accountability issued the above-referenced final audit report to the Department of Finance ("Finance"). Finance responded to the preliminary audit findings by letter dated December 20, 2013. This report is submitted in accordance with the Comptroller's request that within 90 days following issuance of the final report, Finance report to the Comptroller on the steps taken to implement the audit recommendations, and to explain any instances where such recommendations were not implemented. I am pleased to report that, except where specifically noted, all of the recommendations in the final audit have been fully implemented.

Accountability for Court and Trust and Cash Bail Funds

Recommendation 1: Finance should investigate the differences between CATS ["Court Assets Tracking System"] ledgers and the financial institution balances and make appropriate corrections. Maintain the documentation to support each error and the necessary corrections.

In December 2012 the Court Assets staff reviewed all the cases in CATS to ensure that the case balances transferred from HOD to CATS were correct. Upon completion of the review, we noted that the discrepancy in the legacy manual HOD ledger and the total ledger balance was appropriately reduced by \$500,000 as a result of an overstatement by that amount of one Court and Trust case. In addition, we were unable to account for the ATI fee discrepancy of approximately \$380,000 between what was in our records and the total amount held in our financial institutions. We determined at that time that these discrepancies were due to data entry errors made to our manual ledger, but that the case amounts were equal to the amount of funds held at our financial institutions.

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We have continued to review our verifiable records in CATS to ensure that the ATI monies are properly accounted for. We take seriously that there remains an unexplained balance from the legacy manual HOD system. The absence of the original documents from which the manual entries were made makes a forensic investigation of the account, and verification of the reasons for this discrepancy, virtually impossible to achieve. We remain confident that these defects have been cured in the active CATS system, and that our procedures appropriately verify the balances on an ongoing basis.

Our current monthly bank account reconciliation process requires that that all Cash Bail funds in our bank accounts equal the open Cash Bail case balances in CATS. We ensure every month that the fees paid to the city are accurately deducted from the Cash Bail cases. Accordingly, we now have adequate controls in place to ensure that any discrepancies are resolved immediately.

With respect to the recommendation that accumulated moneys in the ATI bank account should have been distributed to the ATI programs, Finance acts as custodian of the funds and is not authorized to make disbursements. The Administration is working on a plan for how best to distribute the prior year funds to benefit the ATI programs. This will be included in an upcoming financial plan, at which time Finance will distribute the funds as directed.

Recommendation 2: Finance should take appropriate action to determine the causes of unallocated interest and develop a plan to fully distribute interest to the account.

The CATS system automatically allocates monthly interest to the Court and Trust cases. All interest earned is properly allocated to the Court and Trust cases and no amount of interest is left unallocated. Accordingly, this recommendation has been fully implemented and the matter has been resolved.

Court and Trust Funds

Recommendation 3: Finance should 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 the Court and Trust accounts are properly credited for the interest earned from investments.

In response to the State auditors' recommendation, Finance reviewed the statutory provisions governing Finance's authority to collect a 0.5% investment fee when funds are deposited into the Court and Trust accounts. Finance agreed with the auditors' interpretation of the statute and we made the required programming changes to CATS. These changes were fully implemented for all cases commencing on July 1, 2013.

Finance currently reviews all new Court and Trust deposits to ensure that the 0.5% fee is accurately deducted and the monthly interest is posted to the open Court and Trust cases at the beginning of each month. As an additional control, we also prepare a manual interest calculation, which is then used to verify that all of the interest posted to these open cases in CATS is correct. We save this monthly interest comparison in our records for future reference.

In relation to account adjustments for keying errors, we have instituted steps to prevent and quickly identify keying errors that include segregation of duties and daily reconciliation of cases entered and bank deposits processed. Such errors are now identified and corrected immediately. We keep records of all error corrections in the corresponding case folders and we note the adjustments in our month-end bank account reconciliations.

Recommendation 4: Finance should prepare and maintain records that document that the correct amount was posted to each Court and Trust account.

Detailed notes are made to each Court and Trust case to explain the actions taken and all related documents are attached to the appropriate case in CATS. Any adjustments or corrections must be reviewed and approved by a supervisor. Physical or original documents are made part of the case folder. At the end of the month, as part of the month-end closing process, any adjustments and corrections are noted and explained in our bank account reconciliation. As such, we prepare and maintain records that document case activity to ensure that the correct amount was posted to each Court and Trust account. We believe this matter has been resolved.

Bail Funds

Recommendation 5: Finance should 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 Finds, and
- Closing bail cases timely and ensuring that cases which are pending dormancy do not already have a court order issued.

Court Assets does a daily reconciliation of all new Cash Bail deposits. We generate monthly reports detailing all cases on deposit for a six-month period. To ensure that cases are handled correctly, we contact courts to request refund orders and follow up on such requests. When a refund order is received, we immediately process and close the case. We have also changed our annual abandonment process to begin the review of cases to be abandoned much earlier each year to allow sufficient time to communicate to the courts and make every attempt possible to return the funds to the surety. Each month a number of cases are thoroughly reviewed and acted on. We have created and incorporated a checklist into our review process for staff to ensure that individual cases are completely reviewed for accuracy.

We have also developed CATS reports that we review periodically to ensure that fees are being properly calculated and withheld from cases prior to abandonment. We believe that our current process fully ensures that Cash Bail cases are handled properly from the time of the deposit to the when the funds are returned or abandoned. Accordingly, the recommendation has been fully implemented and this matter has been resolved.

Recommendation 6: Finance should 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).

As noted in our December 20, 2013 response to the preliminary audit findings, we reviewed the five Cash Bail cases at issue and determined that the cases were correctly handled. Our current process leaves no room for error for processing Cash Bail cases that are dormant or pending abandonment. Accordingly, this recommendation has been fully implemented.

Recommendation 7: Finance should review the practice of withholding incarceration fees from forfeited bail, take action to correct the accounts and discontinue withholding incarceration fees from forfeited bail.

As noted in our December 20, 2013 response to the preliminary audit findings, it is our position that Finance is entitled to the 1% incarceration fee in all cases, except where a defendant is acquitted (GML§ 99-m (4)). We believe this matter has been resolved.

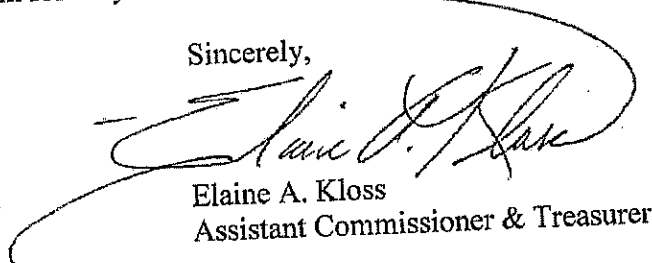
Recommendation 8: Finance should prepare and send the AC231 to the State Comptroller each year, as required.

Finance filed this annual report on form AC231 A&B for 2012 and 2013 with the State Comptroller on March 1, 2013 and January 31, 2014, respectively. This report is now part of the Court Assets documented procedure and it will be filed every year by February 1. Accordingly, Finance considers this recommendation fully implemented.

In closing, I want to take this opportunity to thank you and your audit team for the time you spent reviewing the Court Assets procedures and records. We appreciate all your recommendations, which we have fully implemented. We believe that your recommended changes have improved our internal controls and will help us do a better job safeguarding the funds.

Thank you again for all your recommendations and guidance.

Sincerely,



Elaine A. Kloss
Assistant Commissioner & Treasurer

Cc: Jacques Jiha, Commissioner, NYC Department of Finance
Jacqueline Gold, Esq. NYC Department of Finance
Celia Carino, Director of Internal Audit, NYC Department of Finance
Sheila Voyard, Director of Court Assets, NYC Department of Finance
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