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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

June 22, 2010

David M. Frankel  
Commissioner  
New York City Department of Finance  
59 Maiden Lane  
New York, NY 10038

Re: Report 2009-F-41

Dear Mr. Frankel:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III of the General Municipal Law, we have followed up on the actions taken by officials of the Department of Finance to implement the recommendations contained in our audit report, *Accountability Over Court, Trust and Bail Funds* (Report 2007-N-8).

**Background, Scope and Objective**

Section 2601 of the Civil Practice Law and Rules requires that all monies paid into the New York City courts be forwarded to the City's Department of Finance (Finance). These monies include bail postings made on behalf of defendants, payments made pursuant to court orders, trust funds from estates controlled by Public Administrators (such estates have no known heirs or no heirs able or willing to administer the estates), and other miscellaneous funds. Payments made pursuant to court orders commonly involve landlord/tenant disputes and surplus monies from foreclosures.

Finance receives these monies from various City courts, New York City Public Administrators, the New York City Department of Correction (bail funds), and other City agencies. In accordance with the New York City Charter, Finance must open and maintain separate ledger accounts whenever court, trust or bail funds are received, and keep an exact accounting of all such funds. Finance's Client Services Unit is responsible for the monies and maintains a computerized accounting ledger for these court, trust and bail funds. According to Finance's Statement of Condition (financial statement), as of April 30, 2010, the court and trust funds totaled \$314.6 million and the bail funds totaled \$49.4 million.

Our initial audit report, which was issued on August 26, 2008, examined whether Finance adequately assured that it maintained an accurate accounting for court, trust and bail funds. The audit found that Finance was able to reconcile records of the total amounts of these funds to the

amounts on deposit with its banks. However, Finance was unable to reconcile the individual ledger accounts for the funds to the amounts in the banks. At the time of our audit as of December 31, 2006, the supporting ledger accounts showed \$10.8 million more in court and trust funds than was on deposit and the total of the bail fund subsidiary ledger accounts was \$3.3 million less than on deposit. The objective of our follow-up was to assess the extent of implementation, as of May 26, 2010, of the three recommendations included in our initial report.

### **Summary Conclusions and Status of Audit Recommendations**

We found that Finance officials have made significant progress in correcting the problems we identified. However, additional improvements are needed. Of the three initial audit recommendations, one recommendation has been implemented, and two recommendations have been partially implemented.

### **Follow-up Observations**

#### **Recommendation 1**

*Implement an updated integrated computer system that maintains individual account balances for court, trust and bail funds, and fully and accurately accounts for the funds.*

Status - Partially Implemented

Agency Action - Finance has recently implemented a new computer system, the Bail Automated Receipt System (BARS), to record and account for all bail funds. Finance officials demonstrated to us some of the capabilities of BARS. According to Finance officials, BARS is able to perform daily reconciliations between the account balances and the bank balances for bail funds. Finance officials acknowledged, however, that due to a lack of funding, an updated computer system has not yet been implemented to account for court and trust funds.

#### **Recommendation 2**

*Monitor existing discrepancies to ensure they do not substantially change. If a substantial change is noted, immediately investigate it to isolate and correct the problem.*

Status - Implemented

Agency Action - To monitor the existing discrepancies, Finance enhanced its internal controls in the deposit, disbursement and reconciliation processes. Finance implemented new procedures to ensure that the deposits and disbursements for each month are accurate and that the amounts agree with the bank's records. Also, the procedures require that a supervisor reviews the reconciliations and that another individual ensures that all the monies in the subsidiary ledger accounts are accounted for.

Finance provided us with documentation showing that, as of April 30, 2010, the court and trust fund and bail fund discrepancies have been reduced by \$500,000 and \$700,000,

respectively, since the initial audit. Finance officials indicated that they began monitoring the discrepancies in January 2009. Since then, Finance has identified discrepancies in December 2009, March 2010, and April 2010, and has taken steps working with its Information Technology Unit to resolve them.

### **Recommendation 3**

*Develop a strategy for resolving the existing discrepancies before conversion to a new system.*

Status - Partially Implemented

Agency Action - Finance officials indicated that while a complete correction and reconciliation of past discrepancies may not be possible, all individual accounts in the new bail system will have correct information and will be reconciled to bank balances on a daily basis. Finance officials informed us that, during the conversion to BARS, they made a special effort to identify duplicate cases in the old system. Finance identified 3,300 duplicate accounts and has so far resolved 2,441 of them. We reviewed a sample of the duplicate accounts to verify that they were resolved. However, similar action has not been taken to resolve the existing discrepancies for court and trust funds, since an updated system has not yet been implemented.

Major contributors to this report were Gene Brenenson, Irina Kovaneva, Jean-Renel Estime, and Menard Petit-Phar.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report.

Very truly yours,

Albert Kee  
Audit Manager

cc: Christopher Browne, Audit Liaison  
George Davis, Mayor's Office of Operations