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February 14, 2014

Susan M. Heard  
Orleans County Treasurer  
34 East Park Street  
Albion, New York 14411

Report Number: 2014M-43

Dear Ms. Heard:

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 and/or statutory authorization 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 the State Finance Law and Section 42 of the Executive Law, we examined certain records and reports for court and trust funds of Orleans County for the period January 1, 2011 through January 1, 2014.

### **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.<sup>1</sup> These actions are recorded in the County Clerk's 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, 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.

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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 County Clerk, Surrogate’s Court and Treasurer for the period January 1, 2011 through January 14, 2014. 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 that the records maintained by the County Clerk and Surrogate’s Court were generally up-to-date and complete, and we noted no material discrepancies.

We also found that 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 which improperly remained in the Treasurer’s custody that should have been turned over to the State Comptroller as abandoned property.

Pursuant to the Abandoned Property Law, moneys which 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.

The following four actions, totaling \$9,663, were not properly turned over to the State Comptroller as abandoned property. After we brought these actions to her attention, the Treasurer took immediate corrective action.

Action No.	Date of Origination	Abandoned Property Due Date	Title of Action	Amount
527	12/4/2006	4/10/2010	Estate of Robert Dixon	\$5,714
None	6/12/2008	4/10/2012	Town of Albion v. Paul Iten and Mrs. L.A. Morgan	\$250
531	5/21/2008	4/10/2012	Estate of Ann O. Franck f/b/o Linda K. Kern	\$2,413
533	10/27/2008	4/10/2012	Estate of Marian Bowerman	\$1,286
<b>Total</b>				<b>\$9,663</b>

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

**Recommendation**

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

We would like to thank Orleans 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

cc: Hon. James P. Punch, Orleans County Family and Surrogate Court Judge  
Ms. Karen Lake-Maynard, Orleans County Clerk