



OFFICE OF THE COUNTY AUDITOR

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DuPage County Auditor

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October 11, 2018

Hon. John E. Zaruba, County Sheriff
DuPage County
Wheaton, IL 60187

Dear Sheriff Zaruba,

The Office of the County Auditor has completed an audit of the Replevin and Levy Account (Account) administered by the County Sheriff's Office. The audit consisted of examining the internal controls, records, receipts and disbursements of the Account for the period from December 1, 2016 through July 31, 2017. The results of the audit are presented herein.

Summary of Findings

- The transactions that were examined were found to be consistent with the intent of the Account;
- The source for all but a small portion of the Account's balance could not be attributed to active cases;
- Written procedures should be updated;
- There was inadequate segregation of duties in the maintenance of the Account; and,
- The Account was closed in July 2017 with most of the remaining balance of \$57,190 transferred to the County's General Fund.

Background

Illinois compiled statutes prescribe that the property of a person against whom a judgment has been entered in any court can be sold to satisfy the judgment. Further, the statutes state that the payment from the sale shall be made to the Sheriff of the county in which the sale is made.

The purpose of the Account is to administer the collection and disbursement of funds while recovering property in order to satisfy judgments. In a personal property levy case, the action is initiated by the plaintiff's attorney who submits certified copies of the judgment, a surety bond in the amount of two times the value of the judgment, and a fee for the service of the levy. The fee is deposited into the County's general fund and the other funds are deposited into the Account. The Sheriff's Office Civil Division computes the interest on the judgment at the statutory rate of 9% and calculates the total amount due to the plaintiff. Notice of the total

amount is served on the defendant by a Sheriff's Deputy. The defendant is given an opportunity to pay the full amount, otherwise the property is seized, the sale is publicly advertised, and the property is sold at an auction administered by the County Sheriff. The proceeds of the sale are deposited in the Account. A commission is paid to the Sheriff's Office from the proceeds and deposited in the general fund, and the balance of the sale proceeds are remitted to the plaintiff from the Account.

In a real estate levy case, the action is initiated by the plaintiff's attorney, who submits certified copies of the judgment, a letter of direction asking the Sheriff to levy the real estate, and a \$400 payment to pay for the costs of the levy and sale. The payment is deposited to the Account. The Civil Division prepares and records a Certificate of Levy, which is served on the defendant by a Deputy. In the case of a defendant's homestead, an appraisal is obtained. At the direction of the plaintiff's attorney, a sale is scheduled and publicly advertised. The sale is performed at the Sheriff's Office with the sale going to the highest bidder. If a third party wins the bid, the proceeds are deposited to the Account. A redemption period of six months and one day follows the sale, during which the defendant can satisfy the judgment. At the end of the redemption period, the sale must be confirmed by the Court, and then the Deed is prepared by the Civil Division. An invoice is prepared showing the original deposit for the fees, the expenses incurred, the Sheriff's commission of \$1,000, and the balance due. This amount is received from the plaintiff's attorney, deposited to the Account, and then a separate disbursement is made to the County's general fund for the commission.

Levy actions are somewhat infrequent. Because the timing is driven by the plaintiff, the cases can remain open without activity for a period of time.

As an agency account, all deposits to the Account are distributed to the Sheriff, another party for costs incurred or, to the plaintiff. The Account is categorized as a liability account because the balance represents the amounts payable to third parties. During Fiscal 2017, the Account was closed, with the balance distributed to a newly-opened Real Estate and Personal Property Account (subject of audit report #18-47) and the County's general fund.

The Account is included in the County's fiscal year 2017 Comprehensive Annual Financial Report (CAFR) as an agency fund, which we believe is the correct classification.

Audit Objectives

The objectives of the audit were to evaluate the procedures related to the processing of Account receipts and disbursements during the period from December 2016 through July 2017 in order to determine:

1. That internal controls in place at the Sheriff's Office were adequate to safeguard the funds in the Account;
2. Receipts into the Account were properly documented, recorded and deposited intact and on a timely basis;
3. Disbursements from the Account are appropriate and documented; and,
4. The Account's balance consists of funds held for pending cases.

Audit Procedures

The audit procedures included reviewing pertinent accounting records, court records, banking transactions and other supporting documentation related to the deposit and disbursement of Account funds by the Sheriff's Office. Interviews were conducted with the County Sheriff and Sheriff's Office management staff as deemed necessary in order to obtain an understanding of the procedures and internal controls related to the financial transactions of the Account.

All deposits and disbursements were matched from bank statements to the accounting records and to court documents to ensure that dates, amounts and parties to the transactions were consistent with the intent of the court

Audit Findings and Recommendations

Account Cash Balance on Hand

By definition, a governmental agency fund requires that all funds should be payable to a specific third party. In this situation, the Account's cash balance should consist of the following components:

- Cash received from real estate sales that have not yet completed the redemption period, have not been confirmed by the court and therefore, have not yet been distributed; and,
- Undisbursed balances from the \$400 prepayment fee related to real estate levy cases.

A previous audit performed by the County Auditor determined that the cash balance in the Account was significantly in excess of the undisbursed amounts in the active cases. The Sheriff's Office Civil Division staff researched the Account's activity and determined that only \$804.38 of the Account's balance could be attributable to active cases. In February 2017, a check for this amount was issued from the Account to establish a new checking account administered by the Sheriff's Office named the Real Estate and Personal Property Levy Account.

The remaining balance in the Account, \$56,385.73, was determined to have been replevin case fees collected over several years earned by the Sheriff's Office that had not been distributed to the General Fund.

Per direction from the State's Attorney's Office and the County Auditor's Office, the Account was closed in July 2017 and the remaining balance distributed as follows:

- | | |
|-------------|--|
| \$1,000.00 | Transferred to the recently created Real Estate and Personal Property Levy account to maintain a nominal \$1,000 balance; and, |
| \$55,385.73 | Deposited with the County Treasurer in the General Fund. |

Internal Controls

The County Auditor obtained an overview of the internal controls relative to the Account by interviewing Sheriff's Office staff. A review of the bank statements noted that the reconciliations were performed on a timely basis by an individual not involved in the deposit or disbursement activity.

Although the Account was closed, the audit revealed that there was inadequate segregation of duties regarding the administration of the Account. One employee is responsible

for preparing the checks, signing them, and recording them in QuickBooks. Proper internal controls recommend that a different employee be responsible for reviewing the documentation and signing the checks.

Procedures Manual

There are written procedures describing the activities to be performed. However, it was observed that the instructions appear to be several years old and have many handwritten notes appending the processes. It is recommended that the procedures be updated and rewritten to integrate the additions. During the audit, there were several minor errors and omissions that were noted related to the complexities of some cases. The Sheriff's Office noted that updated procedures have been prepared and are being reviewed by the State's Attorney's Office.

Account Disbursements

There were three disbursements made from the Account – two checks and one transfer. Each check was signed by an authorized individual and the transfer was made to the newly established Real Estate and Personal Property Levy account at a local bank.

I want to express my sincere appreciation for the generous assistance provided by your Office and your staff. The County Sheriff's Office is to be commended on your timely response to the recommendations made during the course of the audit. If you have any questions, please contact me.

Sincerely,

OFFICE OF THE COUNTY AUDITOR



Bob Grogan, CPA, CFE
County Auditor

#18-46
Attachment

cc: Grant Eckhoff, Chairman, Judicial and Public Safety Committee
Tom Cuculich, County Administrator
Paul Rafac, Chief Financial Officer

OFFICE OF THE COUNTY AUDITOR
 COUNTY SHERIFF CASH ACCOUNT AUDIT - REPLEVIN & LEVY (Closed 7/10/17)
 FISCAL YEAR 2017

	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	TOTAL
BEGINNING BALANCE	\$ 56,852.31	\$ 56,852.31	\$ 56,852.31	\$ 56,047.93	\$ 56,385.73	\$ 56,385.73	\$ 56,385.73	\$ 55,385.73	\$ -	\$ -	\$ -	\$ -	\$ 56,852.31
TOTAL RECEIPTS	-	-	-	337.80	-	-	-	-	-	-	-	-	337.80
TOTAL DISBURSEMENTS	-	-	804.38	-	-	-	1,000.00	55,385.73	-	-	-	-	57,190.11
ENDING BALANCE	\$ 56,852.31	\$ 56,852.31	\$ 56,047.93	\$ 56,385.73	\$ 56,385.73	\$ 56,385.73	\$ 55,385.73	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

RECEIPTS

MISCELLANEOUS - 46000	\$ -	\$ -	\$ -	\$ 337.80	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 337.80
TOTAL	\$ -	\$ -	\$ -	\$ 337.80	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 337.80

DISBURSEMENTS

RELEASE OF FUNDS - 53818	\$ -	\$ -	\$ 804.38	\$ -	\$ -	\$ -	\$ -	\$ 55,385.73	\$ -	\$ -	\$ -	\$ -	\$ 56,190.11
STATUTORY AND FISCAL CHARGES - 53808	-	-	-	-	-	-	1,000.00	-	-	-	-	-	1,000.00
TOTAL	\$ -	\$ -	\$ 804.38	\$ -	\$ -	\$ -	\$ 1,000.00	\$ 55,385.73	\$ -	\$ -	\$ -	\$ -	\$ 57,190.11