



OFFICE OF THE COUNTY AUDITOR

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Hon. James Mendrick, County Sheriff
DuPage County
Wheaton, IL 60187

Dear Sheriff Mendrick:

The Office of the County Auditor has completed an internal audit of the Chancery Sales Account (Account) maintained by the County Sheriff's Office. The internal audit consisted of examining the internal controls, records, receipts, and disbursements of the Account for the fiscal year ended November 30, 2018. The results of the audit are presented herein.

Audit Results

- A sample of transactions were examined and were found to be consistent with the intent of the Account;
- Transactions should be reviewed by a second individual prior to being finalized;
- The combined reconciled cash balances in the Chancery Sales and Chancery Surplus Accounts is approximately \$180,000 greater than the amounts identified as due to plaintiffs and surplus amounts at November 30, 2018; and,
- The internal controls related to the Account have areas for improvement.

Objective

The County Auditor will perform a series of audit procedures designed to evaluate the internal controls over certain bank accounts outside the control of the County Treasurer. The objectives of the audit were to evaluate the procedures related to the processing of Account receipts and disbursements during fiscal year 2018 in order to determine if internal controls in place at the Sheriff's Office were adequate to safeguard the funds in the Account, that receipts were properly documented, recorded and deposited intact and in a timely manner, and that disbursements were appropriate and documented.

Background / Audit Scope

Illinois compiled statutes prescribe the process for the Sheriff to conduct a sale by virtue of a judgment of foreclosure, or judicial sale. After a judgment is entered against a property in foreclosure, the plaintiff's attorney can request that the property be sold at auction by the Sheriff's Office. Foreclosure notices are published in the local newspaper of the town where the property is located for three consecutive weeks prior to the sale.

Sheriff's sales are administered by the Civil Division of the Sheriff's Office on Tuesday and Thursday mornings. The plaintiff indicates its opening bid prior to the sale and has the option to cancel or postpone the sale up until the time the sale begins. At the beginning of the sale, Sheriff's personnel announce the address of each property that will be sold and the plaintiff's opening bid for the properties. Bidders provide proof to Sheriff's personnel that they have either cash or a certified check for 10% of the opening bid of the properties in which they are interested. For each property, the bidding starts at the opening bid amount; the plaintiff is considered the buyer if there are no bids on the property. If there are additional bidders, the first bid (in the order they signed in) is \$1 more than the opening bid; subsequent bids are in increments of at least \$100. The Sheriff's personnel record each bid and bidder. The bidding progresses sequentially with bidders withdrawing periodically until the high bidder remains. The winning bidder immediately submits their deposit of at least 10% of the opening bid, and remits the remaining balance to the Sheriff's Office within 24 hours.

The sale is not considered final until it is confirmed by the court, generally a week or two after the sale. Confirmations occur in a courtroom at 8:30 or 9:00 on Tuesdays and Thursdays. The Sheriff's staff executes the after-sale paperwork and submits it to the judge the day before confirmation. After the confirmation is received, the staff will prepare the disbursement to the plaintiff.

A surplus occurs when the winning bid is greater than the judgment awarded to the plaintiff. The Sheriff's Office staff sends notices to the parties that were notified in the original foreclosure proceedings to advise them that a surplus exists. These parties may petition the court to award them the surplus if they have a claim against the defendant. The court will issue a turn-over order to compel the Civil Division to disburse the surplus to these other parties. The parties present the filed turn-over order to the Sheriff's personnel and a disbursement of the ordered amount is prepared. The statute states that the surplus shall be held until a party obtains a court order for its distribution or until, in the absence of an order, the surplus is forfeited to the State. During 2017, a separate non-interest-bearing Chancery Surplus Account was established for the surplus amounts. At the time the proceeds are disbursed to the plaintiff, the appropriate funds are transferred from the Chancery Sales Account to the Surplus Account.

All deposits of sales proceeds will be distributed to the plaintiff or the Chancery Surplus Account. The Chancery Account bank balance at any time should represent amounts payable to others.

As of the end of fiscal year 2018, the Account had a balance of \$5,864,131.81 and is maintained in a non-interest-bearing demand deposit account at a local bank. During FY 2018, \$49,784,483 in receipts were deposited into the Account from proceeds of judicial sales, and \$53,676,009 was disbursed to plaintiffs or transferred to the Chancery Surplus Account.

The audit procedures included reviewing pertinent accounting 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 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.

The County Auditor examined banking records and transactions of the Chancery Sales bank account for fiscal year 2018. On a sample basis, 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. Procedures included verifying that deposits were made in a timely manner, disbursements were properly documented, and that reconciliations were performed and independently reviewed in a timely manner.

Audit Findings and Recommendations

Procedures Manual

There is not a current procedures manual for recording the Chancery Division transactions. Sheriff's Civil Division personnel informed the County Auditor that a manual containing current procedures has been drafted but not finalized. This is a repeat finding from a prior internal audit performed by the County Auditor. It is recommended that a manual describing the current procedures is finalized and distributed to staff.

Internal Controls

The County Auditor obtained an overview of the internal controls relative to the Account. It appeared that the internal controls as described were adequate and operating properly. A review of the bank statements noted that the reconciliations were performed on a timely basis by an employee not involved with deposit or disbursement activity. Following a recommendation from the FY2017 internal audit performed by the County Auditor, beginning with the April 2018 bank reconciliation, there was a secondary review of the reconciliation. The Sheriff's Office is commended on promptly implementing this internal control.

Deposits

A sample of the deposits into the Account was tested to verify that the high bid from each judicial sale was deposited intact, on a timely basis and that appropriate documentation existed to support the deposit amount. No exceptions were noted in the amounts deposited. In one instance, there was a typographical error in the case number entered for a deposit.

Account Disbursements

Disbursements from the Account consist of payments of proceeds to plaintiffs following the Court's confirmation of the sale and transfers of any surplus amount to the Chancery Surplus Account. A sample of disbursements by check and through account transfers was tested to verify that amounts agreed to case files. All sampled disbursements were valid and properly documented.

The stated procedures are for checks exceeding \$5,000 to be signed by 2 authorized individuals. It was noted that there were 4 checks issued totaling over \$500,000 in which there was only one signature present. In order to protect the integrity of the employees involved in the distribution process, it is recommended that the Sheriff's Civil Division staff ensure that sufficient signers are available so that the stated policy can be followed.

Internal audit procedures identified one instance in which the sales price indicated a \$100 surplus, yet the entire proceeds were distributed to the 2 plaintiffs. Civil Division staff stated that the plaintiffs' attorneys have been contacted to attempt to recover the surplus.

It is recommended that procedures be implemented so that all deposits and disbursements are reviewed by a secondary employee prior to being finalized. As there are two employees attending each sale, the employee assisting at the sale can prepare the transactions, and the more

experienced individual can serve as reviewer. This arrangement has the added benefit of cross-training personnel.

Transfers to Surplus Account

At the time that a sale has been confirmed and the proceeds are distributed to the plaintiff, surplus funds are transferred from the Chancery Sales Account to a separate Chancery Surplus Account; these amounts remain until distributed subject to a Court-issued Turnover Order or escheated to the State.

Internal audit procedures identified two cases involving \$16,184 and \$45,042 where surplus amounts were not transferred to the Surplus Account. In another case, proceeds of \$80,872 were transferred instead of the surplus amount of \$22,628. This error was corrected when discovered. It is recommended that transactions are reviewed by a second employee prior to execution. It is further recommended that there is a thorough review of surplus transactions since the opening of the Surplus Account to identify other amounts not transferred.

Voided Checks

In 4 situations, it was noted that checks were voided after the original disbursement check cleared the bank. This indicates that duplicate distributions occurred for these cases and that the case file did not indicate that the proceeds had been already disbursed. It is suggested that a check list be developed to detail all the requirements in the processing of Sheriff's Sales to ensure complete and accurate recording.

Case Numbers in QuickBooks

The transactions for both the Chancery Sales Account and the Chancery Surplus Account are maintained in QuickBooks. Following a recommendation made by the County Auditor resulting from a previous internal audit of the Chancery Sales Account, beginning in February 2017 the case number for each transaction is entered as "Job Code" in QuickBooks to facilitate tracking the activity within each case. Overall, the inclusion of the case numbers has improved the identification of liability in both the Chancery Sales Account and the Chancery Surplus Account. However, the internal audit procedures identified several typographical and other errors in the coding for some cases. Additionally, some sales occurred prior to the implementation of the new procedure which will require adjustments in order to make the Quick Books reporting accurate. These transactions will be communicated separately by the County Auditor to the Civil Division for investigation and resolution. It is strongly recommended that when all items are resolved, the QuickBooks Job Profitability Report, which shows deposits and disbursements by case number, be generated on a monthly basis and reconciled to the bank account balances.

Missing Transfers from Chancery Sales to Chancery Surplus

The amounts for cases which have had no disbursements at November 30, 2018 was \$4,970,555. This amount is \$362,464 less than the reconciled bank account balance for the Chancery Sales Account of \$5,333,018. The undisbursed surplus amounts for identified cases are \$2,337,523, which is \$181,038 more than the reconciled cash bank balance in the Chancery Surplus Account of \$2,156,485. During audit procedures, the County Auditor identified cases in which the surplus amount resulting from the sale were not transferred from the Chancery Sales Account to the Chancery Surplus Account. It appears there are additional non-transferred amounts which have not yet been discovered. The Chancery Surplus Account activity since its inception in 2017 should be reviewed to identify and transfer these amounts.

Account Balance on Hand

The nature of the Chancery Account as an agency fund requires that all funds should be payable to a specific third party. The undisbursed amounts for proceeds and surplus amounts in specific cases identified at November 30, 2018 was \$7,308,078. This amount is \$181,425 less than the combined reconciled bank account balances in the Chancery Sales Account and the Chancery Surplus Account of \$7,489,503. After all adjustments to the coding of case numbers have been made in QuickBooks, the Job Profitability Report should be generated and the remaining unreconciled amount determined. It is further recommended that the County Sheriff contact the State's Attorney Office to determine the appropriate disposition of these excess funds.

Cash Handling

After the FY2015 internal audit performed by the County Auditor, the Civil Division implemented a procedure that the Financial Services Manager would count any cash received and initial the deposit slip to indicate the amount was verified. Also, it was also recommended that the transaction receipt should indicate that cash was received. Cash was included on 16 deposit slips during Fiscal 2018; 12 of these included the initials of a supervisor; 2 of those without initials included only \$1.00 of cash). The case files for 2 of these cases were examined and 1 did not include an indication of the cash on the receipt. It is recommended that the policy of supervisory review and documentation thereof is followed.

Reporting Significant Cash Transactions

The Internal Revenue Service requires that any trade or business who receives more than \$10,000 in cash in a single transaction or in related transactions must file IRS Form 8300 – Report of Cash Payments Over \$10,000 Received in a Trade or Business within 15 days of the transaction. The instructions for the Form 8300 state that if more than one cash payment for a single transaction or related transactions is received, the multiple payments should be reported when the combined total exceeds \$10,000.

Internal audit procedures identified one case during FY2018 where there were two \$9,000 cash deposits made on consecutive days as the down payment and as a portion of the remaining balance. The two \$9,000 payments were not reported on a Form 8300. It is recommended that procedures are established so that instances of significant cash deposits are properly reported.

Non-Interest Bearing Account

The Account consistently has a significant balance, with month-end bank balances during FY2018 ranging from \$5.3 million to \$13.4 million, maintained in a non-interest bearing account for which no bank fees are paid. It may be advantageous to maintain these funds in an interest-bearing account. It is recommended that the Sheriff consult the State's Attorney to determine if an interest bearing account is allowable, and a determination should be made if such an account would be beneficial.

Fund Classification

The County's Comprehensive Annual Financial Report (CAFR) classifies the Account as an agency fund. As defined, an agency fund accounts for situations when the government receives and disburses resources in an agency capacity; i.e., held for a third-party. In this case, the agency fund classification for financial reporting purposes is appropriate, as all funds in the account are due to other parties.

Summary of Recommendations

- An updated procedures manual describing the chancery operation of the Civil Division be implemented.
- In order to ensure the integrity of the individuals disbursing funds from the Account, it is recommended that staff comply with the stated policies requiring dual signatures on checks.
- Procedures should be implemented to ensure that all deposits and disbursements are reviewed by a second employee prior to being finalized.
- It is recommended that the surplus amounts in the cases which have been identified be transferred from Chancery Sales Account to Chancery Surplus Account.
- It is suggested that a checklist be developed for each case to detail all the requirements in the processing of Sheriff's Sales to ensure complete and accurate recording.
- It is recommended that when outstanding items are resolved, the QuickBooks Job Profitability Report, which shows deposits and disbursements by case number, be generated monthly and reconciled to the bank account balances.
- It is recommended that the Sheriff consult with the State's Attorney to determine the possibility of transferring the funds to an interest bearing account.

I want to express my sincere appreciation for the generous assistance provided by your Office and your staff. If you have any questions, please contact me.

Sincerely,

OFFICE OF THE COUNTY AUDITOR



Bob Grogan, CPA, CFE
County Auditor

#19-06

cc: County Board
Robert Berlin, State's Attorney
Tom Cuculich, County Administrator
Paul Rafac, Chief Financial Officer