

AUDIT REPORT

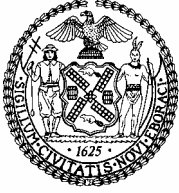


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Follow-up Audit of the Financial and Operating Practices of the Richmond County Public Administrator

MD05-058F

June 21, 2005



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, § 93, of the New York City Charter, my office has performed a follow-up audit of the financial and operating practices of the Richmond County Public Administrator Office (PA) to determine whether it has implemented the 17 recommendations made in an earlier audit, Audit Report on the Financial and Operating Practices of the Richmond County Public Administrator's Office (Audit No. MD00-081A), issued May 24, 2000.

The results of our audit, which are presented in this report, have been discussed with PA officials, and their comments have been considered in the preparation of this report. Audits such as this provide a means of ensuring that estates are administered according to applicable guidelines and in the best interest of the decedents and their beneficiaries.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in black ink that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.
WCT/fh

Report: MD05-058F
Filed: June 21, 2005

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*The City of New York
Office of the Comptroller
Bureau of Management Audit*

**Follow-up Audit of the Financial and Operating
Practices of the Richmond County
Public Administrator**

MD05-058F

AUDIT REPORT IN BRIEF

This is a follow-up audit to determine whether the Richmond County Office of the Public Administrator (PA) implemented the recommendations made in a previous audit of its financial and operating practices that was issued on May 24, 2000. In this report, we discuss the 17 recommendations from the prior audit in detail, as well as the current implementation status of each recommendation.

In Fiscal Year 2000, our office conducted an audit to determine whether the PA complied with Article 11 of the New York State (State) Surrogate's Court Procedure Act (SCPA), the Report and Guidelines of the Administrative Board for the Offices of the Public Administrators (Administrative Board Guidelines), and other applicable City and State laws and regulations. That audit found that the PA:

- Did not notify the Surrogate's Court of estates that were open for more than two years.
- Paid excessive legal fees for some estates.
- Underreported \$2,300 of miscellaneous income to the Internal Revenue Service (IRS).
- Did not clearly document inventories found at decedents' residences.
- Did not update its list of physical assets to reflect the purchase of computer equipment.
- Did not have an audit performed by an independent Certified Public Accountant (CPA).
- Did not report correct estimated estate values to the State Comptroller.
- Did not submit required documentation to the City Comptroller.

Audit Findings and Conclusions

Of the 17 recommendations made in the previous audit, the PA implemented eight and did not implement seven. Two recommendations were no longer applicable.

In this follow-up audit, we found that the PA now notifies the Surrogate's Court of estates that are open for more than two years, has updated its list of physical assets to reflect new purchases, is submitting required reports to the State Comptroller, and is submitting the required documentation to the City Comptroller.

However, the following areas still need improvement:

The PA:

- Has not developed procedures for identifying, tracking, and reporting required IRS Form 1099 (1099) payments to the IRS.
- Has not ensured that both the preliminary inventory list it prepares during estate residence searches and the auctioneer statements of estate items sold are appropriately detailed.
- Does not have an annual audit conducted by a CPA.
- Does not include the correct estimated value of estate property in its report to the State Comptroller.

Audit Recommendations

To address the issues that still exist, the PA should implement the recommendations of the previous audit that were not fully addressed. These recommendations are repeated below, as follows:

The PA should:

- Develop procedures for identifying, tracking, and reporting to the IRS 1099 payments.
- Implement a coding system or other mechanism to identify IRS Form 1099 payments so that at the end of the year it can summarize the amounts and forward the information to the individuals receiving payments and to the IRS.
- Ensure that the preliminary inventory list prepared during the searches is detailed and legible.
- Ensure that auctioneer statements of items sold contain details for items sold

in grouped lot numbers.

- Contract for an annual audit in accordance with the Surrogate's Court Procedure Act.
- Select the independent auditing firm in accordance with Comptroller's Directive #5.
- Ensure that it includes the correct estimated value of all of an estate's property in its report to the State.

INTRODUCTION

Background

The Offices of the Public Administrator for the counties within New York City are governed by Article 11 of the SCPA, under which the head of each office—the Public Administrator—“is appointed by and may be removed by the judge or judges of the court . . . and shall continue in office until removed.” Each Public Administrator is responsible for administering the estates of individuals in its respective county who die intestate or when no other appropriate individual is willing or qualified to administer the estate.

The Richmond PA handles the estates of such decedents in Richmond County. As an estate’s administrator, the PA makes funeral arrangements, collects debts, pays creditors, manages the decedents’ assets, and searches for possible heirs. It is also responsible for filing tax returns on behalf of the decedents.

In September 1993, following a 1991 joint follow-up review by the State Comptroller and the State Attorney General, an Administrative Board for the Offices of the Public Administrators of the State of New York was created to oversee the PA offices. The board enacted the Administrative Board Guidelines, which include rules for record-keeping; managing cash, property, and other assets; maintenance of “suspense” accounts; payment of fees; and the initial inspection of a decedent’s premises.

The City provides the primary source of funds for the operation of the Public Administrator’s office. To fund expenses that are not covered by the City’s budget appropriations, the Administrative Board Guidelines authorize the Public Administrator to charge each estate an administrative fee of up to one percent and to maintain a “suspense” (imprest) account. These fees are deposited in a separate bank account and are used to supplement the PA budgets. The Administrative Board Guidelines stipulate that suspense-account funds be used to pay expenses “necessary for the proper functioning of the office’s operations and for the administration of estates.” The funds can also be used as a loan to estates to pay expenses prior to the conversion of estate assets to cash.

According to the City’s Fiscal Year 2004 Annual Financial Report, expenditures for Richmond PA’s Fiscal Year 2004 were \$234,271, of which \$218,063 was for Personal Services and \$16,208 was for Other Than Personal Services. The Personal Services expenditures pay for the cost of the Public Administrator and four other full-time employees. The remaining employee on the payroll is funded from the Suspense Account.

The Richmond County Surrogate’s Court appointed the current Public Administrator on February 19, 1999, following the retirement of the former Public Administrator in December 1998. As of August 2004, the Public Administrator was administering 337 estates, valued at more than \$17.8 million.

Objective

This is a follow-up audit to determine whether the PA implemented the 17 recommendations made in an earlier audit, *Audit Report on the Financial and Operating Practices of the Richmond County Public Administrator's Office* (Audit No. MD00-081A), issued May 24, 2000.

Scope and Methodology

The scope period of this audit was Fiscal Year 2004. We reviewed the PA Fiscal Year 2004 documentation to assess whether they had implemented the previous recommendations.

To gain an understanding of the policies, procedures, and regulations governing the PA, we reviewed Article 11 of the SCPA, the Administrative Board Guidelines, Comptroller's Directive #28 *Reporting Requirements for Public Administrators*, and other applicable City and State regulations. In addition, we interviewed the PA staff to gain an understanding of the office's practices related to the handling of estate and suspense-account funds. We also met with the Public Administrator to discuss the implementation status of each of the prior audit's recommendations.

To assess the PA's accounting procedures relating to the handling of estate accounts for compliance with the Administrative Board Guidelines for estates that had a value of \$1,000 or more, we randomly selected a sample of five closed estates, valued at \$32,198, out of a population of 22 estates that were closed during Fiscal Year 2004 with a total value of \$698,309. We verified that each estate valued at more than \$500 was accounted for separately, as required by the guidelines. We also reviewed the account ledger and supporting documentation for each sampled estate, to determine if:

- Proper procedures were followed for the sale of decedent's personal property.
- All required documents were in the estate files.
- There was supporting documentation for all estate receipts and disbursements.
- Estate and fiduciary tax returns were filed.
- The estate trust balance reports reflected all funds going in and out of the estate account.
- Reconciliations were performed between the estate's Final Decrees, Final Accountings, and Trust Balance Reports.
- Appropriate commissions and fees were charged to the estates.
- Estate accounts were insured by the Federal Insurance Deposits Corporation and investment balances were less than \$100,000.
- Estate bank accounts under the Public Administrator's stewardship were reconciled.

- Medicaid funds were submitted to the Department of Social Services, as required for nursing home estates.

To ensure that all of the estates open for more than two years were reported to the Surrogate's Court, as required by the SCPA, we compared the July 2004 report (most recent report available) of all the open estates that the Public Administrator submitted to the Surrogate's Court with estates that had a Letter of Administration¹. To determine if the Public Administrator had reviewed estates that were open for more than two years and why their assets had not been distributed, as required, we reviewed estate records maintained by the PA. We also reviewed these records to determine if the Public Administrator took any actions to close these estates in which all pending issues had been resolved.

We determined whether the PA implemented a coding system or other mechanism to identify the reportable 1099 payments, as recommended in the prior report. We also determined whether the PA correctly reported all 1099-payments to the IRS.

To assess the PA's control over decedent's properties, we reviewed the system for collecting, recording, and securing properties removed from decedents' residences. We verified whether the PA prepared inventory lists of decedents' properties and whether the properties were securely stored. We determined whether the PA maintained records of investigators' reports, appraisals of decedents' assets, and sale prices of decedents' properties. To determine if secured properties at the PA were adequately accounted for, we traced items from the "preliminary" (manual) inventory list prepared when PA staff inventoried properties at a decedent's residence and the computerized list of properties compiled at the PA's office to the auctioneer's list of properties for the 20 estates with inventory.

We determined whether the PA refunded estates cited in the prior report for which excess legal fees were charged. We also determined whether the PA had contracted a Certified Public Accountant firm to perform an annual audit, in accordance with the SCPA.

We reviewed the January 2004 Annual State Report submitted by the PA to the State Comptroller. To ensure they were accurately reported, we recalculated the gross estate values stated in the report from documentation in the PA's records. In addition, we reviewed the PA's Account Balance Report and noted all estates with a Letter of Administration. We compared those estates with the ones included in the Annual State report to ensure that all estates with Letters of Administration were included in both reports.

We also reviewed the Fiscal Year 2004 monthly reports submitted to the State Comptroller's Office for closed estates. We compared each estate reported as closed, as

¹ A Letter of Administration gives the PA fiduciary powers over decedents' estates worth more than \$20,000.

well as the estate's value, to the Account Balance Report to determine whether the reports were accurate. In addition, we determined whether the PA submitted monthly reports of closed estates and final disposition of estate assets to the City Comptroller, as required by Comptroller's Directive #28.

The results of the above tests, while not projectable for the entire population, provided us a reasonable basis to determine whether the PA had implemented the recommendations made in the previous audit.

Our audit was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) and included tests of the records and other necessary auditing procedures. This audit was performed in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with PA officials during and at the conclusion of this audit. A preliminary draft report was sent to PA officials and discussed at an exit conference held on April 28, 2005. On May 3, 2005, we submitted a draft report to PA officials with a request for comments. We received a written response from the PA on May 13, 2005. PA officials agreed with the audit's findings and recommendations, stating, "We have certainly done our best to implement all of the recommendations of the auditors and are certain that we are now in complete compliance, and that all recommendations have been implemented where possible. We thank you for your suggestions and advice."

The full text of the PA's comments are included as an addendum to this report.

RESULTS OF FOLLOW-UP AUDIT

Previous Finding: “Report of open estates were not filed with the court.”

The PA did not report to the Surrogate’s Court open estates that received Letters of Administration and were open for more than two years, as required by the SCPA. If the court had been aware of the status of these estates, it could have attempted to expedite the completion of their administration.

In addition, for three of the sampled cases, the PA attorney had collected the entire amount of legal fees allowed although these estates were still open and he had not yet completed his obligations to them.

Previous Recommendation #1: “The PA should ensure that it submits a report on all open estates to the Surrogate’s Court so that the Court can take appropriate action to complete the closing.”

Previous PA Response: “A report of all open estates to the Surrogate’s Court has been implemented.”

Current Status: IMPLEMENTED

The PA now submits a report to the Surrogate’s Court of all open estates that have Letters of Administration. Based on our review of the PA’s October 2004 Account Balances Report, Letters of Administration were obtained for 22 estates that were open for more than two years. These estates were reported to the Surrogate’s Court, as required by the SCPA.

Previous Recommendation #2: “The PA should review the records of estates open for more than two years to determine why estates have not been distributed.”

Previous PA Response: “As Public Administrator I do review the records of estates that have been open for more than two years.”

Current Status: IMPLEMENTED

The PA reviews the records of estates that have been open for more than two years and determines why estates have not been distributed.

From the five sampled estates that we reviewed, and discussed with PA staff, we ascertained that the PA did review the records of estates that were open for more than two years.

Previous Recommendation #3: “The PA should take steps to close estates in which all pending issues have been resolved.”

Previous PA Response: “As Public Administrator I . . . take the necessary steps to close estates in which all pending issues have been resolved.”

Current Status: IMPLEMENTED

The PA takes all the necessary steps required to close estates in which all pending issues have been resolved. Although two of our sampled estates should have been closed, the attorney handling one of the cases relocated to another state and the Public Administrator had to reassign the case to the current attorney. The other estate is a criminal case that has extenuating circumstances and is held up in the court.

Previous Recommendation #4: “The PA should ensure that any remaining legal fees due on these estates are not paid until the estates are closed.”

Previous PA Response: “I have also implemented a policy where any balance of legal fees due to Public Administrator attorney are not paid until estates are closed.”

Current Status: IMPLEMENTED

The PA has ensured that any remaining legal fees due on the open estates are not paid until the estates are closed.

For the five sampled estates that we reviewed, we ascertained that the PA did not pay any remaining legal fees due on open estates until the estates were closed.

* * * * *

Previous Finding: “Excess legal fees charged to estates.”

We found that one of the counsels appointed by the Public Administrator charged excess legal fees totaling \$12,906 for two of the six sampled estates that were opened under the prior Public Administrator’s administration.

Previous Recommendation #5: “The PA should ensure that counsel is not paid fees above the agreed-upon 6 percent rate, unless approved in advance by the PA. The current PA should attempt to recoup, where possible, past payments above the 6 percent rate, and ensure that future claims for legal fees above the 6 percent rate are documented and reviewed to determine if they are valid.”

Previous PA Response: “The Public Administrator has instituted a policy that legal fees will generally be paid at a rate of 6 percent in accordance with past policy. In some cases, however, an additional legal fee for representing the Public Administrator in a house closing or perhaps for a 2225 proceeding or some such similar action, will be reviewed for supplemental payment. However, this again falls within the purview of the Judge of the Surrogate’s Court who has full authority to determine these legal fees and to approve, disapprove or adjust said fees.”

Current Status IMPLEMENTED

The Public Administrator has implemented a policy whereby legal fees in excess of six percent are no longer paid. Four of the five sampled estates that we reviewed were charged six percent legal fees. The one estate that was charged an excess of \$1,390 was opened during the administration of the previous Public Administrator. The excess amount was allowed by the Surrogate’s Court at that time. According to the current Public Administrator, the fees cannot be recovered after they have been approved by the Surrogate’s Court.

Previous Recommendation #6: “The PA should re-evaluate the legal fees charged under the prior PA.”

Previous PA Response: “Regarding past legal fees approved by the incumbent Public Administrator at that time, and approved by then incumbent Surrogate, I would have no authority to refund the estate for what the Comptroller’s is labeling excess legal fees. That again is clearly within the authority of the Surrogate.”

Current Status: NO LONGER APPLICABLE

The current Public Administrator stated that he was unable to recoup payments after the Surrogate’s Court had approved the final payments.

Previous Recommendation #7: “The PA should where possible, refund the estates for which excess legal fees were charged.”

Previous PA Response: “Regarding past legal fees approved by the incumbent Public Administrator at that time, and approved by then incumbent

Surrogate, I would have no authority to refund the estate for what the Comptroller's is labeling excess legal fees. That again is clearly within the authority of the Surrogate."

Current Status NO LONGER APPLICABLE

The current Public Administrator stated that he was unable to refund the legal fees after the Surrogate's Court had approved the final payments.

* * * * *

Previous Finding: "Payments were not properly identified as '1099-MISC' Earnings and Reported to the IRS."

The PA underreported 1099 payments, totaling \$2,300, to the IRS during Calendar Year 1999. This might enable individuals, (i.e., consultants, attorneys, and vendors) to underreport their income to the IRS and avoid paying taxes on the excluded amounts.

The PA did not identify or track all payments reportable to the IRS as miscellaneous income during the year. According to the PA bookkeeper, the accounting software the office uses—Quicken Home and Business 1999—is not equipped with the functions necessary to identify 1099-reportable payments. PA officials stated that the software would be modified to track 1099-reportable payments.

Previous Recommendation #8: "The PA should develop procedures for identifying, tracking, and reporting to the Internal Revenue Service 1099 reportable payments."

Previous PA Response: "We have developed procedures for identifying, tracking and reporting to the IRS 1099 reportable payments."

Current Status: NOT IMPLEMENTED

The PA has not developed new procedures for identifying, tracking and reporting 1099 payments to the IRS. The PA bookkeeper still prepares a list of all persons who were paid \$600 or more during the preceding year and forwards it to the PA's independent accountant, who prepares the 1099 forms.

The PA included all of the individuals in its 2003 1099-reportable payments. But by not developing procedures for identifying, tracking, and reporting 1099 payments to the IRS, the PA still risks not including all the required individuals, and subjects itself to a maximum fine of \$100,000.

Previous Recommendation #9: “The PA should implement a coding system or other mechanism to identify 1099 reportable payments so that at the end of the year it can summarize the amounts and forward the information to the individuals receiving payments and to the IRS.”

Previous PA Response: “We will be meeting with our CPA with the intent of better customizing our computer software with the purpose of maintaining even more accurate record keeping.”

Current Status: NOT IMPLEMENTED

The PA has not implemented a coding system or other mechanism to identify 1099 reportable payments. As a result, an error was made in the amount reported for one individual, overstating his earnings by \$883.

The bookkeeper explained that she erroneously copied the amount from the prior year’s Form 1099. This type of error would not have happened if the computer were set-up to indicate who should receive a 1099 tax form, and summarized those amounts at the end of the year.

* * * * *

Previous Finding: “Inadequate documentation of inventory at decedents’ residences”

The PA did not prepare a legible inventory list of estates’ personal property during its residence searches. The previous audit found instances in which the auditors were unable to trace items from the preliminary inventory list, prepared during the initial search of the residence, to the auctioneer’s list.

Previous Recommendation #10: “The PA should ensure that the preliminary inventory list prepared during the searches is detailed and legible.”

Previous PA Response: “Note that the current Public Administrator completes a detailed list accomplished on-site and will take greater care to make notes more legible.”

Current Status NOT IMPLEMENTED

The PA's preliminary inventory list prepared during resident searches is not detailed or, in some instances, incomplete. Furthermore, the computerized listing of estate assets that is prepared after the items are brought to the PA's office from the decedent's residence is not detailed or updated to reflect when items have been sold in auction.

During our review of four open estates and 16 closed estates, we found instances in which we were unable to trace items from the preliminary inventory list and the computerized inventory list to the auctioneer's list of items to be sold. In most instances the auctioneer's list was more detailed than either the PA's preliminary inventory list or its computerized list.

For example, the auctioneer's list for one estate contained nine items, but the PA's preliminary inventory list did not contain any of these items. The PA's inventory listing did not itemize assets for this estate such as two baseballs autographed by Mickey Mantle, each of which sold for \$175, or an autographed photo of Joe DiMaggio, which sold for \$460. In addition, neither the PA's inventory lists nor the auctioneer's list contained a gold "figaro" chain that was appraised at \$165. When questioned about the whereabouts of the chain, PA officials explained that it had been sold for \$25, as part of a lot. In another estate, a gold and diamond ring that had been appraised at \$200 appeared on neither the PA's inventory list nor the auctioneer's list. When questioned about this item, PA officials replied that it had been sold for \$190, as part of a lot of gold rings.

Accurate inventory records are necessary to maintain sufficient controls over estate assets and to protect them against the possibility of theft.

Previous Recommendation #11: "The PA should ensure that auctioneer statements of items sold contain details for items sold in grouped lot numbers."

Previous PA Response: "We work closely with the auctioneers with respect to tagging all items for sale. . . . Absent additional staff . . . it is extremely difficult to accomplish exactly what the auditors have suggested. We will, of course, make every possible effort to do so. In all cases, reporting will be accurate to the best of our ability."

Current Status: NOT IMPLEMENTED

The auctioneer statements of items sold contained no details for items sold in grouped lot numbers. As a result, we had difficulty tracing items noted on the PA's inventory list to the items shown on the auctioneer's statements under grouped numbers.

The appraisal report for one estate contained six pages of items, valued at \$6,870. However, we were unable to identify the items or trace them to the inventory listing because all the items were grouped together. In addition, both the “figaro” chain and the gold and diamond ring referred to above were sold as part of a grouped lot, and were not identified individually.

The PA’s inventory list, as well as the auctioneer’s statement of items sold, should contain details of each item sold in order to provide stronger controls over the accountability of estate assets.

* * * * *

Previous Finding: “Inventory List of PA’s Physical Assets is Not Updated.”

The PA had not updated its inventory list of physical assets to reflect the purchase of new computers and a camcorder.

Previous Recommendation #12: “The PA should maintain an accurate and updated inventory list of all physical assets, and take a physical inventory once every year.”

Previous PA Response: “This criticism has been corrected since a new inventory list has been forwarded to the Comptroller’s Office. A physical inventory of all such assets will be conducted every year.”

Current Status: IMPLEMENTED

The PA supplied us with the October 2004 updated inventory list of its physical assets.

* * * * *

Previous Finding: “Independent Audits Not Performed.”

The PA did not have an annual audit by an independent certified accountant, as required by the SCPA.

Previous Recommendation #13: “The PA should contract for an annual audit in accordance with the Surrogate’s Court Procedure Act.”

Previous PA Response: “The Public Administrator has contacted a New York City Comptroller’s CPA firm to determine the cost of conducting an independent audit in accordance with the SCPA and the Comptroller’s Directive #5. As stated, we are investigating the feasibility of having such an audit conducted for this price.”

Current Status NOT IMPLEMENTED

The PA has not contracted for an annual audit in accordance with the SCPA. According to PA officials, they have not complied with this requirement because the City has not approved adequate funding for such audits in the PA’s Other Than Personal Services budget.

Annual audits would provide assurance that the PA has appropriate financial accountability, has complied with legal or regulatory requirements, and has operated with reasonable efficiency and economy.

Previous Recommendation #14: “The PA should select the independent auditing firm in accordance with Comptroller’s Directive #5.”

Previous PA Response: “The Public Administrator has contacted a New York City Comptroller’s CPA firm to determine the cost of conducting an independent audit in accordance with the SCPA and the Comptroller’s Directive #5. As stated, we are investigating the feasibility of having such an audit conducted for this price.”

Current Status NOT IMPLEMENTED

The PA has not selected an independent auditing firm in accordance with Comptroller’s Directive #5, citing inadequate funding as the reason for noncompliance.

* * * * *

Previous Finding: “Incorrect Estate Values Reported to the State Comptroller.”

The PA did not report the correct values of estates in the January 2000 report to the State Comptroller. Assets in seven (17%) of its 42 reported estates were overvalued. The over-reported values for these estates ranged from \$75 to \$100,000. The PA reported undervalued assets in eight (19%) of its 42 reported estates. The underreported values ranged from \$9 to \$5,000. In addition, we found three estates that met the State’s reporting criteria were not included in the report.

Previous Recommendation #15: “The PA should comply with the State law that requires it to report all estates that fall within the State guidelines.”

Previous PA Response: “We do report the status of all estates annually to the State Comptroller. However, in some cases we were criticized for not reporting an estate which in fact was not required to be reported. . . .The estates we did not report were small estates that had certificates from the court indicating that the Public Administrator has assumed administration of the estate.”

Current Status IMPLEMENTED

The PA submitted a Report of Open Estates to the State Comptroller’s Office for January 2004, covering every open estate in which permanent Letters of Administration were issued, as required by State law.

Previous Recommendation #16: “The PA should ensure that it includes the correct estimated value of all of an estate’s property in its report to the state.”

Previous PA Response: “Our own audit is in variance with some of the numbers determined by the Comptroller.”

Current Status NOT IMPLEMENTED

Although the PA did submit a report to the State Comptroller’s Office, the correct estimated value of all the estate’s property values was not included.

We reviewed the report the PA submitted to the State Comptroller in January 2004. We found that for two of the 25 estates included in the report, the gross values were underreported. The underreported values for those two estates totaled \$187,773. The differences appear to be due to mathematical and transposition errors in totaling the estate assets. In addition, the PA over-reported the cash on hand for one estate. The over-reported amount was \$2,000. This difference appears to be due to a typographical error that occurred when preparing the report.

The report’s grand totals were incorrect as well. The total estimate of gross estate values was underreported by \$570,623; the total amount paid to beneficiaries was over-reported by \$418,498; and the total amount of cash on hand was under-reported by \$1,911,911. It appears that the bookkeeper mistakenly copied the totals from the previous year.

* * * * *

Previous Finding: “The PA is Not Submitting Required Documentation to the City Comptroller.”

The PA did not submit required monthly reports to the City Comptroller regarding closed estates and final disposition of estate assets, as required by the SCPA. Furthermore, the PA did not send an annual report of suspense-account receipts and disbursements to the City Comptroller, as required by the SCPA.

Previous Recommendation #17: “The PA should submit monthly and annual reports to the City Comptroller as required.”

Previous PA Response: “The Public Administrator will certainly submit monthly reports to the City Comptroller regarding closed estates and final disbursements of estate assets and will also submit an annual report of Suspense Account receipts and disbursements which is a compilation of monthly reports sent to the Surrogate’s Court.”

Current Status IMPLEMENTED

Subsequent to the issuance of the prior report, the Comptroller’s Office issued Directive 28, which sets forth the reporting requirements for Public Administrators. In accordance with the SCPA and the Directive, the PA submits monthly reports to the City Comptroller regarding closed estates and the final disposition of estate assets. It does not submit an annual report of suspense-account receipts and disbursements because the Directive does not require that the PA do so. We therefore consider the previous recommendation implemented.

RECOMMENDATIONS

To address the issues that still exist, we recommend that the PA should:

- 1) Develop procedures for identifying, tracking, and reporting to the IRS reportable 1099 payments.

PA Response: “We have developed a new computer coding and tracking system for reporting 1099 payments to the IRS. The procedure has the ability to identify IRS 1099 payments and to provide summaries.”

- 2) Implement a coding system or other mechanism to identify 1099 reportable payments so that at the end of the year it can summarize the amounts and

forward the information to the individuals receiving payments and to the IRS.

PA Response: “Same response as above.”

- 3) Ensure that the preliminary inventory list prepared during the searches is detailed and legible.

PA Response: “The Public Administrator has instructed staff to try to be more legible in the recording of information. The Public Administrator has also instructed staff to provide greater detail when recording the inventory of residences.”

- 4) Ensure that auctioneer statements of items sold contain details for items sold in grouped lot numbers.

PA Response: “We have instructed any auctioneer offering Public Administrator property that all items must be singularly identified.”

- 5) Contract for an annual audit in accordance with the Surrogate’s Court Procedure Act.

PA Response: “The Public Administrator will select an independent auditing firm in accordance with the Comptroller’s Directive #5 when adequate money is placed into the budget of the Public Administrator for this purpose. The Public Administrator has requested this funding yearly, as recently as this month.”

- 6) Select the independent auditing firm in accordance with Comptroller’s Directive #5.

PA Response: “Same response as above.”

- 7) Ensure that it includes the correct estimated value of all of an estate’s property in its report to the State.

PA Response: “We have developed a new procedure to enhance the reporting of the values of estate property reported to the State. We have instituted a new Excel spreadsheet format and we are confident that this will provide greater accuracy in reporting.”



RICHMOND COUNTY

GARY D. GOTLIN
COMMISSIONER
PUBLIC ADMINISTRATOR

ARTHUR W. DECKER, ESQ.
COUNSEL

EVA-MARIE CUSACK, ESQ.
DEPUTY PUBLIC ADMINISTRATOR

130 STUYVESANT PLACE, SUITE 402
STATEN ISLAND, NEW YORK 10301-2486
(718) 876-7228
FAX (718) 876-8377

VIA FEDERAL EXPRESS & U.S. MAIL

May 13, 2005

Mr. Greg Brooks
Deputy Comptroller
Policy, Audits, Accountancy & Contracts
THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
Executive Offices
1 Centre Street
New York, New York 10007-2341

REFERENCE: DRAFT REPORT
Followup Audit of the Financial and
Operating Practices of the Richmond
County Public Administrator
MD05-058F

Dear Mr. Brooks:

Listed below please find our response to the draft version of the above referenced audit report. We have reviewed the recommendations your office made in your followup audit and have taken steps to implement each to improve our financial and operating practices. Herein we address the seven recommendations made on page 2 of your Draft Report. However, please note that in reality there are only five recommendations since two of them are closely aligned with each other.

The following is the official response of the Office of the Richmond County Public Administrator:

- **RECOMMENDATION:** Develop procedures for identifying, tracking, and reporting to the IRS the 1099 payments.
- **RESPONSE:** We have developed a new computer coding and tracking system for reporting 1099 payments to the IRS. This new procedure is a vast improvement over our previous tracking method. The procedure has the ability to identify IRS 1099 payments and to provide summaries. This improved system has been implemented in 2005.

- **RECOMMENDATION:** Implement a coding system or other mechanism to identify IRS Form 1099 payments so that at the end of the year it can summarize the amounts and forward the information to the individuals receiving payments and to the IRS.
- **RESPONSE:** Same response as above.

- **RECOMMENDATION:** Ensure that the preliminary inventory list prepared during the searches is detailed and legible.
- **RESPONSE:** We have made improvements in the preliminary inventory list that is prepared during searches of estate residences. The Public Administrator has instructed staff to try to be more legible in the recording of information. The Public Administrator has also instructed staff to provide greater detail when recording the inventory of residences. In addition, all residences searched by the Public Administrator's Office are photographed and video recorded.

- **RECOMMENDATION:** Ensure that auctioneer statements of items sold contain details for items sold in grouped lot numbers.
- **RESPONSE:** We have instructed any auctioneer offering Public Administrator property that all items must be singularly identified. The Public Administrator has sent a letter as recently as this month. Instructions included the fact that all items placed in a grouped list of similar items must be individually identified as Public Administrator property and a sale price provided for each item.

- **RECOMMENDATION:** Contract for an annual audit in accordance with the Surrogate's Court Procedure Act.
- **RESPONSE:** As indicated previously, the City of New York is required by the Surrogate's Court Procedure Act, Article 1109 to include in its annual budget appropriate funding for the mandated annual independent audit. However, adequate funding has not yet been provided. The Public Administrator will select an independent auditing firm in accordance with the Comptroller's Directive #5 when adequate money is placed into the budget of the Public Administrator for this purpose.
The Public Administrator has requested this funding yearly, as recently as this month.

- **RECOMMENDATION:** Select the independent auditing firm in accordance with the Comptroller's Directive #5.
- **RESPONSE:** Same response as above.

- **RECOMMENDATION:** Ensure that it includes the correct estimated value of all of an estate's property in its report to the State.
- **RESPONSE:** We have developed a new procedure to enhance the reporting of the values of estate property reported to the State. We have instituted a new Excel spreadsheet format and we are confident that this will provide greater accuracy in reporting.

We want to compliment the audit staff of the New York City Comptroller's Office Audit Department for the professional manner in which they conducted the audit of our office. We have certainly done our best to implement all of the recommendations of the auditors and are certain that we are now in complete compliance, and that all recommendations have been implemented where possible. We thank you for your suggestions and advice.

Should you have any questions, please feel free to contact me.

Very truly yours,



Gary D. Gotlin
Public Administrator

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