NEW YORK CITY COMPTROLLER
BRAD LANDER

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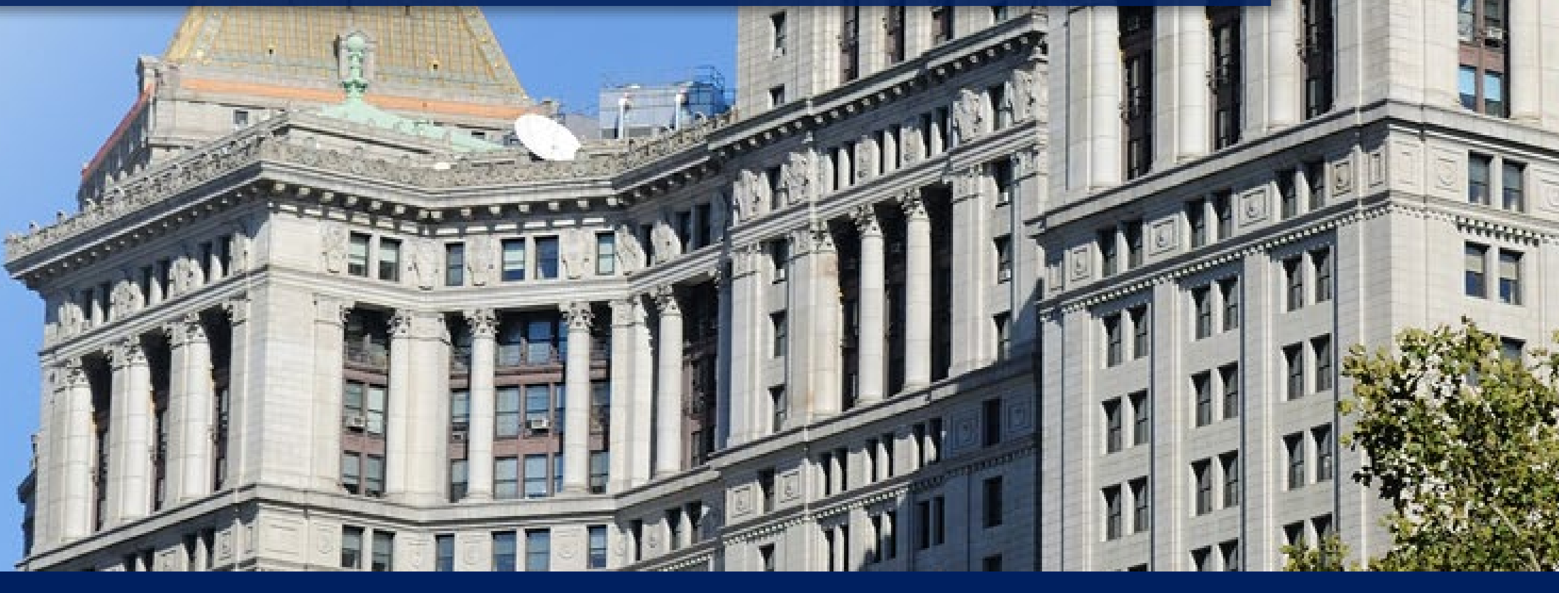
Audit Report on Estate Asset Identification and Management Practices of the New York County Public Administrator's Office

ME23-100A | February 27, 2025



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THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

February 27, 2025

To the Residents of the City of New York:

My office has audited the New York County Public Administrator (NYCPA) to determine whether it conducted proper research to identify decedents' assets and whether it accurately accounted for and properly safeguarded estate assets.

The audit found that NYCPA should improve its processes for identifying, collecting, and safeguarding decedents' assets on a consistent basis. This was evident in a range of deficiencies identified during the audit including that NYCPA did not: (1) identify and claim assets for several sampled estates; (2) consistently maintain adequate records regarding the disposal of property and liquidation of some assets, such as stocks and bonds; and (3) ensure that transactions were consistently documented.

The audit also found that that a significant portion of estates received by NYCPA remained open for more than two years and in some cases, estates remained unassigned for long periods of time, further delaying the administration and closing of estates. Additionally, auditors found that NYCPA did not maintain its records in a manner that would allow for the effective retrieval of documents.

Lastly, the audit found that NYCPA did not consistently comply with reporting requirements, including reports of open estates to the New York State Comptroller and Surrogate's Court, and closed estates to the City Comptroller.

The results of the audit have been discussed with NYCPA officials and their comments have been considered in preparing this report. NYCPA's complete written response is attached to this report.

If you have any questions concerning this report, please email my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

Brad Lander
New York City Comptroller

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The audit found that NYCPA should improve its processes so that it more adequately identifies, collects, and safeguards decedents' assets on a consistent basis. The need for improvement was evident in a range of deficiencies identified during the audit including that NYCPA did not: (1) identify and claim assets for several sampled estates; (2) consistently maintain adequate records regarding the disposal of property and liquidation of some assets, such as stocks and bonds; and (3) ensure that transactions were consistently documented.

The audit also found that estates received by NYCPA remained unassigned for long periods of time, further delaying the administration and closing of estates. Additionally, auditors found that NYCPA did not maintain its records in a manner that would allow for the effective retrieval of documents, resulting in the agency requiring months to provide some of the documentation requested by the auditors.

Finally, the audit found that NYCPA did not consistently comply with reporting requirements, including reports of open estates to the New York State Comptroller and Surrogate's Court, and closed estates to the City Comptroller.

Intended Benefits

The audit identified the need for NYCPA to improve its processes to help ensure that it protects decedents' assets and fulfills its fiduciary obligations.

Introduction

Background

New York City has one Public Administrator (PA) in each county who is appointed by the judge or judges of the Surrogate's Court of their respective counties. The PAs are responsible for administering the estates of individuals who die: (1) intestate (without a will) and is survived by no known heirs or heirs closer than first cousins[1]; (2) with a will but no one has offered the will for probate (legal process involving the Surrogate's Court); or (3) with a will that has been offered for probate but the executor of the will becomes ill, dies, is convicted of a felony, or is otherwise disqualified, and no other person is available to administer the estate. NYCPA administers such estates in New York County (Manhattan).

NYCPA is managed by a PA and a Deputy PA, and the PA is also authorized to hire other employees and consultants to work at NYCPA. The official duties of the PA are governed principally by Article 11 of the New York State Surrogate's Court Procedure Act (SCPA), *Guidelines for the Operations of the Offices of the Public Administrators of New York State* (NYS PA Guidelines), and reporting requirements established by New York City Comptroller's Directives. In addition, NYCPA has its own internal procedures.

As the estate administrator, NYCPA has a fiduciary duty to the estate that requires them to conduct thorough investigations to discover, account for, and safeguard all assets (real and personal property); pay decedents' debts and taxes; account for and maintain documentation to support estate activities and transactions; and distribute estate proceeds to decedents' heirs.

NYCPA's operations are partially funded by the City of New York and partially funded by estate allowances. The City mainly funds the offices' salaries and other than personal services (e.g. some supplies, some contracts, some utilities). The amount of commissions and allowances for NYCPA serving as administrator of an estate is fixed by statute (SCPA Sections 2307 and 1106). The commissions are calculated on a sliding scale based on the gross assets of the estate, starting at 5% of the first $100,000 and going down to 2% of any assets over $5 million. These commissions are supposed to be distributed to the City's general fund (Department of Finance). NYCPA also receives 1% of the gross assets of the estates as an allowance which is supposed to be maintained in a suspense account (separate bank account) and should be used for necessary expenses of the office that are not covered by City funds. The suspense account can also be used to loan money to the estates for various expenses (e.g., filing fees, death certificates, funeral, appraisal fees for marketing real property and co-ops, maintenance fees, utility bills, homeowner insurance fees) to be reimbursed when the estate assets are collected.

One critical component of NYCPA's responsibility is to identify, collect, inventory, and manage or oversee the sale of real and personal property that belongs to estates it administers. NYCPA initiates a property search upon notification by hospitals, nursing homes, funeral homes, medical

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[1] In New York, individuals such as a surviving spouse, children, grandchildren, father or mother, brothers or sisters are considered heirs of an estate.

examiner' offices, or other sources, regarding a decedent with no known family or beneficiaries, or an executor who cannot or refuses to fulfill their obligations.[2]

NYCPA assigns two investigators to visit the decedent's residence to identify and secure existing assets, including jewelry, cash, coins, and financial, personal, and legal documents (e.g., bank and brokerage account information, property deeds showing ownership of real property, proprietary leases showing ownership of shares in co-ops, certificates of title to vehicles, stocks and bonds, wills, utility and maintenance bills, personal identification, photo albums).

After the investigation is completed, the decedent's residence is sealed, and cash, jewelry, and other valuables are secured in locked safes and/or cabinets for safekeeping. Items that cannot be transported for safekeeping are left in the decedents' home and are later appraised by professional appraisers to determine whether there is anything of commercial value that can be sold in a closed-bid auction or at an auction house. Subsequent searches may be performed if necessary.

NYCPA also searches the Office of the New York State Comptroller's (OSC) website for unclaimed funds and LexisNexis-Accurint to identify additional assets that might not have been discovered during the property searches. In addition, NYCPA reviews any information from financial institutions identified during property searches (e.g., banks, pension systems, insurance companies, brokerage firms) and sends letters to them to determine whether those accounts are still active and if so, requests current balances be credited to the decedents' estate accounts.

Once assets of monetary value have been liquidated, the proceeds of the sales, as well as any cash collected from property searches or safety deposit boxes, are deposited in NYCPA's two "pooled" bank accounts and recorded in CompuTrust, NYCPA's electronic case management software system. CompuTrust is used to process and maintain an accounting record of each estate's financial transactions and assets and to support and manage other aspects of estate administration. For each decedent estate case, supporting documentation for transactions recorded in CompuTrust is either maintained in NYCPA's scanned files (found in the local shared network drive) and/or paper files.

As of October 17, 2023, there were a total of 4,702 active estate cases (i.e., all cases that were active) during the period from January 1, 2022 through June 30, 2023, and 1,364 closed estate cases (i.e., all cases that were closed) during the period from January 1, 2022 through June 30, 2023. According to June 2023 bank statements, NYCPA was administering $119,189,151 in gross assets associated with decedents' estates.[3] NYCPA employs 21 staff members, including non-City employees and consultants, the PA and the Deputy PA to administer the estates of decedents.

Objectives

The objectives of this audit were to determine whether NYCPA (1) conducted proper research to identify decedents' assets, and (2) accurately accounted for and properly safeguarded estate assets.

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[2] For estates with gross assets over $50,000 (referred to as formal cases), NYCPA is appointed as an administrator by the Surrogate's Court via a Letter of Administration. Estates with gross assets (1) less than $500 and (2) $500 to $50,000 are referred to as informal cases which can be self-administered by NYCPA via the 1115 Form.

[3] The 2023 bank statements were associated with NYCPA's "pooled" checking accounts from two banks and various individual decedent estate money market accounts from nine banks.

Discussion of Audit Results with NYCPA

The matters covered in this report were discussed with NYCPA officials during and at the conclusion of this audit. An Exit Conference Summary (ECS) was sent to NYCPA and discussed with NYCPA officials at an exit conference held on December 3, 2024. On December 13, 2024, we submitted a Draft Report to NYCPA with a request for written comments. We received a response from NYCPA on January 8, 2025. In its response, NYCPA disagreed with most of the audit's findings and did not directly address any of the audit report's 13 recommendations. Nonetheless, based on its comments regarding the audit's findings, it appears that NYCPA generally agrees with two recommendations (#3 and #7), partially agrees with one (#9), and disagrees with three (#2, #8, and #10). The auditors are unable to ascertain NYCPA's position regarding the remaining seven recommendations.

Throughout its response, NYCPA questions the auditors' competency, thoroughness, and methodology, while maintaining that the audit found no evidence of impropriety and that the procedures already in place are effective. Despite the personal attacks made by NYCPA in its response, the agency did not provide sufficient evidence to refute any of the findings discussed in this report. The auditors have concluded that changes to the findings and recommendations are not warranted. Further, NYCPA devotes a considerable portion of its response arguing against matters that had been resolved either prior or subsequent to the Exit Conference, rendering its comments regarding those matters of little practical relevance.

Where relevant, changes and comments have been added to the report to provide additional information.

The full text of NYCPA's response is included as an addendum to this report.

Detailed Findings

The audit found that NYCPA should improve its processes to ensure that it adequately identifies, collects, and safeguards decedents' assets on a consistent basis. The need for improvement was evident in a range of deficiencies identified during the audit, including failures to identify and claim assets from some estates and inconsistent records regarding the disposal of personal property and liquidation of some assets, such as stocks and bonds. In multiple instances, NYCPA identified assets but failed to pursue status and liquidation proactively as needed to close the estates.

The audit found that a significant portion of estates remained open for more than two years, and in some cases, NYCPA allowed estates to remain unassigned for years after receiving notification of decedents' death.

In addition, transactions were poorly recorded and documented in estate files. Reported collections and deposits and the disposal of personal and real property were not always supported by appropriate records, making it difficult to determine whether NYCPA adequately fulfilled its fiduciary obligations to the estates it handles. Auditors also found that NYCPA did not maintain its records in a manner that would allow for prompt retrieval of information to fulfill the auditors' requests. For several findings for which auditors requested additional documentation during fieldwork, NYCPA did not provide that documentation until immediately prior to or after the Exit Conference (months after the initial requests). Lastly, the audit found that NYCPA is not fully complying with reporting requirements. NYCPA did not consistently report its open estates to the Office of the New York State Comptroller (OSC) and Surrogate's Court, and its closed estates to the City Comptroller, as required.

These and other issues are discussed in more detail below.

NYCPA Should Improve Its Processes for Searching, Collecting, and Safeguarding Decedents' Personal Property

The audit found that NYCPA should improve its oversight over searching, identifying, and safeguarding personal property found at decedents' premises, to reduce the risk that some assets may not be identified and collected.

According to Section IV (Property Management) of the PA Guidelines, the initial search of a residence, if feasible, should be conducted as soon as possible after NYCPA has been notified of the decedent's death and determines that a search is appropriate. During this initial search, at least two NYCPA investigators must be present, and the investigators must ensure that an independent witness (such as a landlord or building superintendent) is available to accompany them throughout the search.

The investigators should attempt to thoroughly search each residence and document the contents and condition by photograph or video recording. During (or immediately following) the search, investigators should then prepare a detailed Investigator's Report and, if feasible, an inventory of its contents. The report and inventory should be signed by the investigators and any witness.

NYCPA's internal procedures, *Investigator Procedures and Reporting Requirements,* also require investigators to record a complete inventory of furniture and valuable items found in a residence

(Decedent's Inventory Record)—a separate document that should be attached to the Investigator's Report.

The audit found that NYCPA did not consistently follow these procedures. Some items found during searches were never documented on the Investigator's Reports and Decedent's Inventory Records or entered in centralized inventory records, personal property appraisals were conducted four months or longer after collection, and decedents' personal property was inadequately secured. Additionally, NYCPA kept inadequate inventory records and did not use its dedicated case management system to track decedents' personal property.

These issues are discussed in more detail below.

Some Items Found During Searches Not Documented in Investigator's Reports and Centralized Inventory Lists

The auditors reviewed photographs uploaded by investigators in the P-Drive and compared them to the narratives in the Investigator's Reports and Decedent's Inventory Records and found that, for the 11 sampled estates where personal property was identified and collected during the initial residence searches, one or more items of personal property were not recorded.[4] [5] These included paintings, appliances, furniture, annuity papers, checks, tax returns, credit cards, and bank-related documents.

The auditors also found that although personal property collected for three of the 11 estates were included in the photographs and the Investigator's Reports, they were not recorded on centralized inventory lists. The items not entered on the lists included three Emmy Awards, a laptop, and an automobile. The auditors learned of the Emmys when they saw records in scanned files indicating that they were sent to a third-party vendor to be assessed for sale by auction.

In fact, NYCPA does not maintain a centralized inventory list that records all of the personal property that is collected and stored. The PA stated that the Investigator's Report—used by an investigator to document their searches of an estate's premises—is the primary document for recording inventory. The PA records the items listed on the reports onto "in-house" spreadsheets maintained by the PA and the Deputy PA that are organized by the dates the decedent estates were received by NYCPA, with each calendar year represented by a separate spreadsheet. According to the PA, these spreadsheets are internal inventory lists and are solely used to document the locations of the inventoried items. However, the above-mentioned items were not included on these spreadsheets. (After the auditors' inquiries, in February 2024, NYCPA recorded the Emmys in its spreadsheets.) In lieu of these spreadsheets, NYCPA should consider using

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[4] Of the 50 sampled decedent estates, residence searches were not required for 28 either because the decedents resided in nursing homes, or the PA did not issue any Apartment Search documents requiring investigations. The auditors endeavored to examine Investigator's Reports and Decedent's Inventory Records pertaining to initial searches for the remaining 22 estates. However, the auditors were only able to review the initial search records for 11 of the 22 estates where property was identified and collected. For five of the remaining 11 estates, the investigators learned upon their arrival that the personal property in the residences were cleaned out or the residences were released to management; and for the other six estates, there was no evidence in the scanned files that initial searches were in fact conducted. (NYCPA provided the initial search information for five of these six estates on December 2, 2024.)

[5] In its response to the Draft Report, NYCPA incorrectly argues that they provided all the "written reports" for the six estates in which the auditors did not find evidence in the estate files of initial searches being conducted. As mentioned in the report, NYCPA was unable to provide the auditors with the initial search information for one of the six estates.

centralized inventory lists (generated by CompuTrust) to help ensure that it is able to identify all personal property belonging to estates in an efficient manner and to better detect whether items are lost or misplaced.

Some Searches Conducted Months After Receiving Notification of Death

As noted, the PA Guidelines state that the initial search should be conducted as soon as possible after receiving notification of the decedent's death. However, the audit found wide differences in the length of time it took investigators to perform their initial searches of the 11 estates, ranging from five to 131 days (approximately four months).[6]

In four instances (36%), searches were performed a month or longer after notifications of the decedents' deaths. In one instance, NYCPA received the death notification on June 18, 2023, but investigators did not conduct their initial search until October 3, 2023, over three months later.

The primary contributing factor for these variances is that NYCPA has not established a time target for conducting initial searches. After the Exit Conference, the PA stated that a residence search is not always conducted immediately after receiving notification for reasons including that the case may involve a legal proceeding (citation) which would prevent NYCPA from searching until receiving clearance from the attorney that the case is a NYCPA matter. None of these 11 estates, however, were identified as citation cases in CompuTrust.

Another reason cited by the PA is that they need to search for family members first to ascertain whether there are any that may be authorized to administer the estates. The PA stated that these searches may take "three-to-four-week[s]." The audit notes that there is no requirement that such a search be performed before conducting a residence search. Further, a residence search may uncover information about family members not previously identified. Finally, delays in conducting residence searches potentially place personal property at increased risk of loss or theft.[7]

Some Personal Property Not Appraised for Four Months or Longer

Upon review of the 12 hard copy inventory lists provided by NYCPA, the audit identified personal property associated with 201 decedents' estates (212 entries) that had not been appraised for at least four months after they were collected and stored by NYCPA in inventory.[8]

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[6] The calculation for the length of time is based on calendar days.

[7] In its response to the Draft Report, NYCPA discusses at length the various reasons that it cannot always conduct a search of a decedent's residence soon after receiving a "Report of Death." However, officials provided no evidence that these circumstances hindered timely response in the sampled estates. The auditors therefore find no basis to modify this finding.

[8] The personal property for these estates had not been put on hold and thus should have been appraised so that they could be sold. NYCPA does not itemize personal property stored for a particular decedent on the inventory lists. Rather, it just notes whether the personal property is stored in an envelope or a box and sometimes includes a brief description under the comments section. Thus, personal property for a particular decedent can potentially be associated with many items.

According to NYCPA's procedures, personal property that is not on hold must be appraised before it can be sold.[9] [10] However, NYCPA has not established a time target for appraising collected personal property that has not been put on hold and is ready for sale. As a result, much of the property went a considerable amount of time without being appraised.

Personal property maintained by NYCPA (e.g., jewelry, foreign currency, rare coins, stocks and bonds, paintings, and electronic devices) is recorded in inventory lists. The auditors identified 267 entries in inventory lists pertaining to personal property that had not been appraised for periods ranging from 49 days (one month and 18 days) to 1,807 days (over four years and 11 months), with 212 (79%) of these entries pertaining to personal property not appraised for at least four months.[11] In one example, a box of jewelry had been collected by NYCPA on May 11, 2021; as of February 9, 2024 (almost two years and nine months later), the personal property had still not been appraised.

At the Exit Conference, NYCPA officials stated that some of the items that the auditors reviewed may not have been appraised for various reasons. For example, family members may have expressed an interest in certain items warranting the items to be placed on hold, or a will had been found and the PA had to determine if someone else would be administering an estate, also warranting the items to be placed on hold. However, there was no indication on the inventory lists that any of the items pertaining to the 212 entries cited by the auditors were placed on hold (as called for by its policy) and therefore should have been appraised.

The longer it takes to appraise decedents' personal property that is not placed on hold, the longer it takes to credit collected assets to the decedents' accounts. Additionally, since money collected on behalf of decedents is maintained in interest-bearing accounts, a delay in the appraisal process will affect the amount of interest earned because the interest earned is calculated as a percentage of the total amount in the accounts. A lengthy appraisal process can also prolong the closing of those estates and the distribution of remaining funds to any heirs dictated by the Surrogate's Court.

In its response to the Draft Report, NYCPA argued that each estate must be assessed individually before conducting appraisals to ensure that there is no information that may warrant a hold. However, NYCPA provided no evidence of circumstances pertaining to the 201 cited estates that justify appraisals being delayed by intervals of four months or more after property was collected and stored in inventory. Establishing a target timeframe for appraising personal property collected and not on hold can be a useful tool to monitor the timeliness of agency processes and to flag estates with unduly delayed appraisals.

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[9] According to the PA, the jewelry appraiser comes to NYCPA approximately twice a month and the coin appraiser is scheduled as needed.

[10] Items can be placed on hold for various reasons, such as if the PA is aware of someone who has priority to administer the estate and has to wait for that person to be appointed, or the PA is the administrator of the estate but family members have expressed interest in the item(s) and the PA plans to distribute them after kinship has been proven, or if a will has been found and the PA has to determine if someone else will administer the estate.

[11] The calculation for the length of time is based on calendar days as of February 9, 2024. There were 290 entries on the inventory lists pertaining to personal property that had not been appraised. However, for 23 entries, NYCPA did not record dates that the personal property had been collected and stored in inventory. Thus, the calculation of the length of time was based on 267 entries.

Bags in Which Personal Property Held Not Adequately Secured

NYCPA stores decedents' personal property in Ziplock bags inside manila envelopes, or in boxes located within seven locked safes, six locked cabinets, and two storage rooms.

The Ziplock bags and manila envelopes are not sealed in any way to prevent them from being opened multiple times. For better security, NYCPA should consider using tamper-proof clear plastic bags with evident seals containing pre-printed inventory numbers that identity the bags. Such bags serve as documented records to track inventory and help prevent unauthorized access or tampering.

At a meeting held on September 19, 2024, the PA stated that they have begun taking the necessary steps to improve its security by instituting the auditors' suggestion to use tamper-proof clear plastic bags with seals. This practice began "as of a couple of months ago."

At the Exit Conference, officials stated that prior to instituting the new tamper-proof bags, they had chain of custody protocols that prohibited persons from opening the Ziplock bags without proper authorization. Nonetheless, this method of storage would not sufficiently deter attempts to violate those protocols.

CompuTrust Not Used to Manage Inventory Transactions

NYCPA does not use the CompuTrust Transaction Inquiry screen to record inventory transactions for real estate and personal property as required by Section I (Office Procedures and Recordkeeping) of the PA Guidelines. Instead, NYCPA records inventory transactions for personal property separately outside of the system, in spreadsheets organized by the date on which estates are received by NYCPA.

Additionally, NYCPA does not adequately itemize decedents' personal property in its inventory lists, to include, for example, a detailed description and number of items found. The agency instead notes whether items are stored in an envelope or a box and sometimes includes a brief description under the "Comments" section. For example, for one estate, the inventory record simply identified "1 box [of] jewelry," with no indication of the type of jewelry (e.g., rings, bracelets, chains) or the number of items within the box.

CompuTrust has built-in codes to allow the user to properly categorize, track, and generate inventory and status reports. The reports can easily be generated by inventory (e.g., 670—jewelry) and status codes (e.g., 674—jewelry on hold), whereas the PA's internal spreadsheets require additional manual input, formatting, and sorting. In addition, CompuTrust allows for easy identification of the appraisal status of personal property and the appraised value to aid NYCPA in the sale of those items. According to the PA, NYCPA mostly relies on the Investigator's Reports as the primary source of recorded inventory. However, as mentioned, those reports do not consistently reflect all items identified during residence searches.

After the Exit Conference, officials stated that they have started using CompuTrust to record inventory transactions. Specifically, for each estate, in the CompuTrust Transaction Inquiry screen the aggregate appraised value of all the personal property (e.g., jewelry) and the appraised value of each real estate is recorded. The PA stated that they are also now documenting the appraisal information in the scanned estate files. Additionally, the PA argued against recording the appraisal value of each item individually in CompuTrust, stating that an estate may have hundreds of items and that to record the value of items individually would be laborious and can result in errors, and NYCPA does not have the staffing to perform this on a regular basis.

Inconsistent Identification, Collection, and Disposal of Decedents' Financial Assets

According to Section IV (Property Management) of the PA Guidelines, "The PA shall take all steps necessary to assure that all personal property belonging to a decedent's estate is collected and credited to the decedent's estate." Initially, the auditors randomly selected 50 estates for detailed testing and then selected five additional estates to review, in order to assess the extent to which NYCPA complied with this requirement.

The auditors' review of documentation contained in the estate files revealed instances in which NYCPA failed to fully investigate or collect decedents' assets from established financial institutions or the OSC, which tracks unclaimed funds. The auditors also found that there were inconsistent records regarding the disposal of personal property and liquidation of some assets, such as stocks and bonds.

These deficiencies are detailed below.

NYCPA Did Not Identify or Collect At Least $208,584 in Assets from Financial Institutions

Based on financial information in the scanned files for the 50 sampled estates, the auditors identified a population of 48 assets (associated with 13 estates) that presumably were held by financial institutions.

An initial review of the files for the 48 assets identified 27 assets (e.g., brokerage and bank accounts) associated with eight unique estates that NYCPA did not collect from financial institutions.[12] Following the Exit Conference, NYCPA provided evidence of actions taken for five of those assets (associated with three estates). The audit identified 22 assets associated with seven estates for which no collections were made.

Six of the assets totaling $208,584 (associated with two estates) were held by financial institutions. This information was provided to NYCPA, but the agency has not provided evidence of adequate efforts to liquidate the funds and deposit them in the decedents' estate accounts.

The other 16 assets (belonging to five estates) were identified by the auditors through bank statements, blank checkbooks, NYCPA draft letters to financial institutions, and retirement savings plans in NYCPA's possession. Based on the initial file review, it does not appear that NYCPA took the steps necessary to liquidate these funds, for example by sending official letters to financial institutions to determine whether the accounts were still active and if so, checking balances of such accounts, collecting associated funds, and depositing proceeds to ensure decedents' estate accounts were credited. Based on the most recent bank statements found in estate files, the auditors were able to determine that three of these 16 assets held a combined

[12] There are a total of 10 estates associated with the 27 assets for which NYCPA failed to identify or collect from financial institutions. However, since one of these 10 estates have more than one issue in this area, there are eight unique estates.

balance of $317,351 (as of September 2022 for one asset and October 2016 for two assets). NYCPA would need to contact the institutions to determine the current balances of the accounts.

Following the Exit Conference, NYCPA provided the following update for six of the 16 assets:

- NYCPA provided a letter dated December 5, 2024, that was sent to a financial institution requesting the balance information for two assets (associated with one estate).
- NYCPA indicated that four assets (associated with one estate) are being verified.[13]

NYCPA Did Not Identify Unclaimed Funds

According to NYCPA, the agency's attorneys are responsible for searching the OSC website for unclaimed funds as part of their initial "standard asset collection procedures" of the decedents' estates. However, the auditors found no evidence in the estate files of searches conducted. [14]

The auditors' review of the OSC website initially identified 22 unclaimed accounts belonging to 12 of the 50 (24%) estate cases sampled, that should have been identified and collected by NYCPA.[15] The length of time that the accounts were unclaimed ranged from one to 17 years. The dollar value of unclaimed funds is not publicly reported on the OSC website. The amount can only be obtained after a claim has been filed by NYCPA and OSC has verified the documentation supporting the claim.

Officials stated that they were aware of one of the 22 unclaimed accounts since 2021 but have not been able to collect it because OSC requires additional documentation from the bank. However, the estate records show no evidence that NYCPA followed up with the bank between 2021 and 2024 to identify the necessary documentation, and as a result, the accounts remain unclaimed nearly three years after NYCPA identified them.

The PA stated that they were unaware of the other 21 unclaimed accounts until the auditors brought the matter to their attention. The auditors searched the OSC website and identified 18 of these using address information found in the sampled estate records. The other three were found on the OSC website because they were linked to an address found in a Lexis-Nexis Accurint search by using a decedent's Social Security number.

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[13] In its response to the Draft Report, NYCPA argues that it was precluded from collecting three assets totaling $62,690 (associated with one estate) because there were living beneficiaries. However, NYCPA provided no evidence (e.g., beneficiary designation forms, email correspondence between the financial institution and the beneficiary or PA) demonstrating that the individuals named in the judicial accounting were living beneficiaries entitled to estate assets. For three other assets totaling $145,894 (associated with another estate), NYCPA claimed in its response that inquiries regarding the collection of the assets were made in February 2024 (after the Letter of Administration was issued by the court) and that it was after the period covered by the audit. However, this estate case was active in February 2023 and therefore was part of the audit scope. Any events pertaining to this estate up until the issuance of the Final Report fall within the audit scope. Also, NYCPA has provided no evidence of these inquiries either during the audit or in its response. In the absence of evidence to the contrary, there is no basis for modifying this finding.

[14] The OCS website has a searchable public database of unclaimed funds from dormant accounts that organizations are required to report, such as forgotten savings accounts, paychecks, or stocks and bonds. NYCPA can use the site to identify and claim the accounts on behalf of decedents.

[15] The 12 estates consisted of 9 active and 3 closed estates. The number of unclaimed accounts reported by OSC for each estate ranged from 1 to 8. For example, one estate had 8 unclaimed accounts reported.

Of the 21 accounts, NYCPA's attorneys agreed to pursue collection for nine accounts pertaining to two estates. After the Exit Conference, NYCPA officials stated that they have already collected the unclaimed funds ($210) pertaining to one of the two estates and that a supplemental accounting is being prepared. Attorneys stated they will not pursue collection for another nine accounts for reasons including that a guardian or family member was identified, a will was admitted to probate, or there are no known heirs, and NYCPA does not want to collect the funds from the unclaimed accounts only to return them to OSC. As of December 13, 2024, NYCPA has not provided any information regarding whether they will pursue collection for the remaining three accounts.[16]

NYCPA's written response to the Draft Report refers to "four" unclaimed accounts for which they will not pursue collection because the accountings have been filed with the Surrogate's Court, NYCPA has deemed the cases closed, and there are no known heirs. However, NYCPA's response contradicts statements provided after the Exit Conference (and acknowledged in the Draft Report) indicating that the agency has already collected the unclaimed funds totaling $210 for one of the accounts and prepared a supplemental accounting. Accordingly, the auditors find no basis to modify this finding.

Inaccurate Inventory Records Pertaining to Stocks and Bonds

The auditors found that NYCPA includes inactive stocks and bonds as well as those for which there are living beneficiaries in its inventory list, and others that the agency did not clarify whether they were active or inactive and how they should be disposed of (e.g., liquidate and deposit funds into the decedent's account, transfer ownership to a living beneficiary). This results in an inaccurate list of assets in the decedents' estate accounts.

Five of the sampled estates reviewed by the auditors included 17 stocks and eight bonds among their assets that were included on NYCPA's inventory list. [17]

A review of the documentation provided by the PA on September 6, 2024, and December 5, 2024, revealed that six of the stocks and two of the bonds could not be liquidated, either because the companies named on the documents were inactive (six stocks and one bond) or there was a living beneficiary named on the document (one bond). The PA stated at the Exit Conference that the responsibility for contacting the beneficiary falls to the financial institution that issued the bond. The PA indicated that NYCPA is simply holding the bond certificate in its vault for safekeeping.[18] Another stock is for an active company and according to NYCPA, there were several attempts made between October and December 2019 to contact the company to verify status, without success. After 2019, they made no further efforts to clarify its status or its disposal. For the

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[16] In its response to the Draft Report, NYCPA discusses at length its arguments regarding collections for the nine unclaimed accounts. These arguments were previously presented to the auditors during the audit and were acknowledged in the Draft Report sent to NYCPA.

[17] During the auditors' inventory observation on February 7, 2024, they randomly selected two estates with four stocks and two bonds. Based on the results and information obtained, the auditors subsequently expanded the review to include three additional estates with 13 stocks and six bonds. These were judgmentally selected from NYCPA's stocks and bonds hard copy inventory list based on perceived risk.

[18] In its response to the Draft Report, NYCPA officials argue that the finding regarding stocks and bonds is "incorrect, and the proofs were provided to the audit team." However, it appears that NYCPA misunderstood the finding which is that NYCPA includes inactive stocks and bonds as well as those for which there are living beneficiaries in its inventory list, which results in an inaccurate list of assets that can be liquidated for inclusion in the decedents' estate accounts.

remaining 10 stocks and six bonds, the PA provided a statement after the Exit Conference that these are all inactive. However, the PA did not provide adequate evidence supporting this statement. For example, the only documentation presented for one of the bonds was a handwritten note stating that the bond was "not viable." The auditors are unable to verify its status.

In its response to the Draft Report, NYCPA repeated its argument that the 10 stocks and six bonds were deemed to be inactive and therefore do not need to be liquidated. However, officials provided no evidence (e.g., record from the Department of State Corporation and Business Entity Database that clearly indicates that the entity has an "Inactive" status) supporting this. In the absence of such evidence, the finding remains.

Further, NYCPA officials argued in its response that they do not delete uncollectible stocks and bonds—such as those that are inactive or for which there are living beneficiaries—from their hard copy inventory list because they want to preserve this information for historical reasons. However, failing to indicate the current status of such stocks and bonds hinders an accurate identification of assets that are actually owned and collectible by estates.

NYCPA Has Not Recorded Stocks or Bonds Collected Since 2022 on Its Inventory List

NYCPA provided auditors a hard copy inventory list of stocks and bonds on February 9, 2024. This list appears to show that between Calendar Years 1988–2022, NYCPA collected stocks and bonds as assets for 99 estates. However, the inventory list does not reflect any estates administered after 2022.

The audit team asked NYCPA if any estates administered after 2022 had stocks and bonds, but NYCPA did not directly address this question, instead stating "[t]he Investigator's Report and a copy of the stocks and bonds are provided to the Case Managers." Based on the hard copy inventory list, however, it was unclear whether there were no estates that had stocks and bonds for this period or whether NYCPA's inventory list is incomplete. At the Exit Conference, the PA stated that NYCPA has collected stocks and bonds since 2022 for a number of estates and acknowledged that they were not recorded on the hard copy inventory list after they were brought back to the office. After the Exit Conference, NYCPA provided documentation indicating that it had received 17 stocks and 82 bonds for six estates since 2022.

In its response to the Draft Report, NYCPA stated that stocks and bonds are initially recorded on a separate list when investigators bring them to the office and place them in a specific safe used for temporary storage. After the Case Managers complete their research of those financial instruments, NYCPA records them on the hard copy inventory list of stocks and bonds and includes the permanent location (another safe or locked cabinet) of these assets until NYCPA clarifies their status or disposes of them. Because NYCPA uses the hard copy inventory list to identify and locate all personal property, the stocks and bonds should also be recorded timely to ensure an accurate and complete representation of assets.

NYCPA Lacks Documentary Evidence in Estate Files to Support Certain Transactions

Section I of the PA Guidelines clearly states that the "PA shall maintain a file ['the estate file'] for each estate containing all documents relating thereto, including but not limited to pleadings, tax returns, correspondence, financial statements, investigator's reports, police vouchers, appraisals, insurance documents, receipts, invoices, and proof of payment of estate disbursements." In other words, once NYCPA identifies and collects a decedent's assets, the agency is required to maintain a comprehensive record of all transactions, complete with supporting documentation.

The audit found poor and inconsistent recordkeeping, as detailed below.

Over $1 Million in Collected Assets Lack Sufficient Documentation

Based on a review of CompuTrust's Transaction Inquiry screen for 29 of the 50 sampled decedent estates, auditors identified 119 assets reportedly collected by NYCPA (totaling $4,722,375).[19] Ninety of them—belonging to 25 estates—had no supporting documentation (e.g., bank and brokerage statements, checks) in the corresponding scanned estate files to indicate that they were collected.[20]

The audit team requested the paper estate files for the 25 estates and were provided with 21; NYCPA was unable to locate the paper files of the remaining four.[21] The initial results of the auditors' detailed review of 12 of the 21 files found records indicating that 46 assets with a total value of $4,157,107 were collected. However, only six assets totaling $40,570 were adequately supported by appropriate documentation contained in the estate file records. Later, after the auditors informed NYCPA of the deficiencies found, NYCPA's attorneys and the PA provided additional documentation supporting the collection of another 22 assets totaling $3,076,639. The remaining 18 assets—totaling $1,039,898—lacked sufficient documentation. [22]

The auditors attribute the lack of sufficient documentation in the estate files to the fact that NYCPA does not consistently maintain estate records in a manner that would allow for the effective retrieval of documents. Without adequate documentation to evidence transactions recorded in CompuTrust, there is an increased risk that the correct asset amount(s) would not be credited to the proper decedent's estate and that such may go undetected.

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[19] For each of the 50 sampled estates, the auditors determined whether there were any asset transactions, and if so, identified up to five with the highest dollar amounts.

[20] In its response to the Draft Report, NYCPA incorrectly claims the auditors requested that specific documentation pertaining to estate files be "placed in one Computer drive for their retrieval." The auditors never requested a separate drive be created for their use. Rather, the auditors requested "read-only access" to the various systems and drives, including CompuTrust and the P-Drive (local shared network drive containing scanned documents, photographs, and videos), used by NYCPA staff to administer estates.

[21] NYCPA incorrectly argues in their response to the Draft Report that auditors failed to retrieve the hard copies necessary to review their findings. On the contrary, the auditors requested access to paper files. Despite being given access to those files, NYCPA still was unable to provide support for the sampled collected assets cited in this report.

[22] In its response, NYCPA argues that it provided auditors with the supporting documentation for all of the questioned assets. However, all documentation provided by NYCPA up to and following the Exit Conference was considered and, where appropriate, findings were modified accordingly. After a careful review of documentation provided by NYCPA, there remains a balance of over $1 million in assets for which adequate support was not provided. Accordingly, this finding remains.

Over $2 Million in Deposits Lack Documentation

The auditors requested the bank deposit information for 56 sampled assets (associated with 40 decedent estates) recorded as having been collected in CompuTrust. These assets totaled $10,866,517.

The auditors' initial review of hard copy files provided by NYCPA's accountant found that the agency lacked supporting bank deposit documentation—such as bank deposit slips, bank receipts, and bank statements showing the deposits made into NYCPA's "pooled" bank accounts—for 30 of the 56 assets (54%), totaling $4,035,766.[23] Auditors first requested this supporting documentation on June 7, 2024, and were provided with partial information on two separate dates (June 27, 2024, and July 16, 2024). However, it was not until NYCPA received the Exit Conference Summary for this audit—more than five months after the auditors first made inquiries into this matter—that officials provided documentation to support deposits totaling another $1,562,623 for 17 of the 30 assets. Even with the new documentation provided, auditors are unable to confirm that the remaining $2,473,143 (associated with 13 assets) recorded in CompuTrust was in fact collected and deposited in NYCPA's "pooled" bank accounts, as reported.[24]

Sufficient Documentation for Private Sales of Real Property and Co-ops Not Maintained in Estate Files as Required

The auditors selected a sample of 10 properties that were issued Letters of Administration and subsequently sold. The auditors were looking for evidence in the decedents' estate files that the agency took appropriate steps to ensure that the properties were sold at the highest and best prices available, in the best interests of the decedents' estates.[25] However, according to the PA, the agency's attorneys maintain such documentation.

The auditors expected to see a valuation and target sale price based on an evaluation prior to placing properties on the market, as well as the back and forth evidencing a negotiated sale close to the target sale price, including emails from brokers to NYCPA summarizing offers from potential buyers, and emails from NYCPA summarizing counteroffers. If properties did not achieve what was expected from the sale, the auditors would also expect to see a file note or memo indicating why an expected sale price was not met. However, in five (50%) instances, estate files did not contain appropriate documentation.

In one of the five instances above, documentation supporting the sale of a co-op in January 2024 was missing from the estate file. NYCPA could not locate the documents electronically or on paper and had to contact the broker to obtain a copy of the sale results.

The auditors also identified a property that was issued a Letter of Administration on March 20, 2009, that had not been sold as of February 29, 2024—nearly 15 years later. According to the

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[23] The bank deposit information is not maintained as part of the decedents' estate scanned or hard copy files; it is maintained separately as part of the accountant's hard copy files.

[24] In its response to the Draft Report, NYCPA claims all the hard copy bank deposit information was promptly provided to the auditors, but auditors' initial request for deposit information in June 2024 was not fulfilled by NYCPA until November 2024, five months later. After receiving the ECS, NYCPA provided additional documentation to auditors, but a balance of over $2 million in deposits still lack documentation.

[25] There was a total of 85 properties managed by NYCPA between the period of January 1, 2022 through February 29, 2024 that were either sold or had not yet been sold. From the properties sold, the auditors selected a sample of 10.

PA, the property is “[n]ot ready for sale - With attorneys for review—coop refusing PA access.” However, there was no documentation in the estate file to substantiate this explanation or to show affirmative steps taken by the PA to put the property on the market and complete a sale.

Deficiencies in NYCPA’s Closing and Reporting of Estates

The audit found that a significant portion of estates remained open for more than two years and that NYCPA allowed estates to remain unassigned for years after receiving them. In addition, the audit found that some sampled closed estates files were missing detailed accountings, close-out memos, and evidence (i.e., invoices, bills) to show that payment transactions totaling $171,573 were equal to the monies due. The audit also found that NYCPA did not consistently report its open estates to the NYS Comptroller and Surrogate’s Court or report its closed estates to the City Comptroller.

Many Estates Remain Open for More than Two Years

The Surrogate’s Court Procedure Act requires each PA to file a report every six months with the Surrogate’s Court listing each estate that has not been fully distributed within two years.[26] Therefore, the auditors used two years as a benchmark for determining whether cases were closed in a timely manner. The auditors reviewed the CompuTrust Status Code History screen and calculated the length of time the sampled 50 estate cases had been opened or re-opened and found that 31 of them (62%) were opened or re-opened for over two years as of October 11, 2023 (the latest status date listed on the active dataset).[27] [28] See Table I below for a frequency distribution of the number of years that these cases remained open.

Table I: Lengths of Time Cases Remained Open

Number of Years	Number of Estates	Percentage	Cumulative Percentage
Over 2 Years to 3 Years	6	19.4%	19.4%
Over 3 Years to 5 Years	15	48.4%	67.8%
Over 5 Years to 10 Years	9	29.0%	96.8%

[26] Chapter 59-A, Article 11, § 1109

[27] A re-opened estate is a case that was previously closed by NYCPA and then subsequently re-opened due to additional assets found such as additional bank and brokerage accounts and royalties (payments made to owners of intellectual property such as musicians and authors for the right for someone else to use that property).

[28] In its response to the Draft Report, NYCPA complains that auditors did not provide information for 31 estates referenced in Table I. However, NYCPA only requested information for two of the 31 estates. Evidence to support each finding that was requested by NYCPA was provided.

Number of Years	Number of Estates	Percentage	Cumulative Percentage
Over 10 years	1	3.2%	100.0%
Total	**31**	100%	100%

For one estate, the case was re-opened on January 12, 2009, and was still open nearly 15 years later on October 11, 2023. The only transactions between April 2011 to October 2023 were: (1) interest accruals totaling $5,929; (2) payments totaling $1,965 made to the Certified Public Accountant in March, April, or May of 2013 through 2023; and (3) payments totaling $1.30 made to NYCPA as repayments for initially paying decedents' bills from the NYCPA Imprest Fund.

These few transactions indicate that no significant activity was ongoing (e.g., new assets identified). There did not appear to be any need for the estate to remain open. According to information in CompuTrust, NYCPA was awaiting a kinship hearing to be scheduled on January 3, 2011. After bringing the matter to NYCPA's attention, NYCPA learned that the case was referred to the Court's Law Department in 2011 for review and response. The current counsel has made an inquiry related to this case with the Court. This matter was left unattended between 2011 and 2024—over 13 years.

In another case—an estate that was open for almost five years—information in CompuTrust indicated that a family member of the decedent was identified in January 2019, and that person would take over administration of the estate. However, as of June 14, 2024, the family member had not yet petitioned the court, and NYCPA had made no efforts to move the process along, leaving the estate in limbo. According to NYCPA, if there is a family member with priority who is willing and able to act, NYCPA stops all work and responsibility is transferred to the family member.

While there are notes in the comments section of CompuTrust, they do not clearly indicate why the estates have been open for so long. The auditors believe that for the sake of transparency, and as part of best practices, for each estate that has been open for over two years, NYCPA should consider including in the comments section of the Decedent Profile screen an explanation for the delay.

In its response to the Draft Report, NYCPA argues that each estate is unique and impacted by varying factors and therefore cannot be expected to be closed within the same time frame. NYCPA cites various factors that contribute to estates remaining open for long periods of time but fails to provide evidence that any of these factors were relevant to the delays of the estates cited in this finding. As indicated earlier in this report, 31 (62%) of the 50 sampled estate cases were opened or re-opened for more than two years. NYCPA provided no documentation to justify the time needed to finalize and close out estates.

Estates Remain Unassigned for Years

The audit found that out of 4,702 active decedent estates, 2,005 (43%) were identified as "unassigned" in CompuTrust as of October 11, 2023.[29] The audit determined that 1,841 (92%) of these estates remained "unassigned" for six months or longer.[30] This hinders NYCPA's ability to properly monitor and track each estate and identify unusual delays in the administration of the estates, as required.[31]

Some Closed Estates Were Missing Supporting Documentation for Payments, Detailed Accountings, and Close-Out Memos

An estate accounting (referred to as "internal," "informatory," or "judicial," depending on the estate's gross assets) provides a financial breakdown of what happened to the assets in a decedent's estate. This accounting includes a summary of any assets received by the estate and their value, a summary of the debts, income earned by the estate, the value of the estate after expenditures, and the value of every distribution made.

An examination of 20 sampled closed estates revealed the following:

- The auditors identified a total of 18 payments (associated with 10 estates) totaling $171,573 that NYCPA recorded as having been made. However, for 10 payments (associated with five estates) totaling $158,316 (92% of the amount paid), there was no evidence (i.e., invoices, bills) to show that the amounts paid were equal to the monies due. In the absence of such evidence, the auditors were unable to verify that the appropriate amounts were paid.
- Ten of the 20 decedents' estates were small informal cases (i.e., estates with gross assets less than $500), which requires NYCPA's accountant to prepare an internal estate accounting to close the case. However, for three of the 10 estates (30%), there was no evidence in the scanned files showing that such an accounting was prepared. Following the Exit Conference, NYCPA provided the accounting for two of the three estates.
- Five of the 20 decedents' estates were formal cases (estates with gross assets over $50,000), which requires NYCPA's attorney to prepare a judicial estate accounting to close the case.[32] However, for four of the five estates, there was no evidence in the scanned files showing that such an accounting was prepared by the attorney. Following the Exit Conference, NYCPA provided the accounting for all four estates. There was also no evidence of "close-out memos" in the files for any of the five estates, as required.

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[29] The term "unassigned" means that NYCPA was notified about a decedent and the estate had not yet been assigned to a Case Manager because more information (e.g., death certificates, Social Security numbers, identification and collection of assets) was needed to determine how to handle the estate (i.e., whether to close or administer it) and then to change the status code accordingly.
[30] The calculation for the length of time within this entire section is based on calendar days.
[31] In its response to the Draft Report, NYCPA argues that auditors did not provide the information for the cited estates. For many of the audit's findings, NYCPA requested (and was provided) supporting evidence, but NYCPA did not request supporting evidence for the estates cited in this finding.
[32] Prior to November 25, 2019, a case was considered formal if the gross assets were over $30,000. Two of the five formal cases were included in this category.

In the absence of accounting, NYCPA cannot demonstrate that assets are properly accounted for and that all distributions are appropriate.

Incomplete Reporting to Various Oversight Authorities

Estates Are Not Consistently Reported to New York City and State Comptrollers' Offices

According to Article 11, §1109 of the New York State Surrogate's Court Procedure Act and Comptroller's Directive 28, *Reporting Requirements for Public Administrators,* PAs are required to file a monthly statement of estates that have been "closed or finally settled" with the Surrogate's Court, the Mayor, and the City Comptroller's Office.

PAs are also required to file in January an annual report of open estates with the NYS Comptroller's Office, as per Title 2, § 72.1 of the Rules and Regulations of the State of New York. The report is to include every open estate for which permanent Letters of Administration were issued to PAs on or before December 31 of the previous year.

The auditors randomly selected six months (January 2022, February 2022, July 2022, September 2022, November 2022, and May 2023) during the period covering January 2022 through June 2023 and determined that NYCPA did not include 135 of the 324 closed estates (42%) on the City Comptroller's Directive 28 Monthly Report of Closed/Settled Accounts, as required. NYCPA did not submit any monthly reports for the four months of February, April, May, and June 2023. After the auditors' inquiries, NYCPA submitted the afore-mentioned reports.[33] Additionally, according to the PA, the agency reports to the City Comptroller's Office only those closed estates that generate statutory commissions to DOF.[34]

Regarding the reporting of open estates to the NYS Comptroller's Office, the auditors selected a sample of 10 estates from the active dataset provided by NYCPA on October 17, 2023, and found that three (30%) were not included in either of the two annual open reports reviewed by the auditors (Calendar Years 2022 and 2023). There was another estate that was included on the Calendar Year 2022 report but was not included on the Calendar Year 2023 report. Furthermore, it appears that NYCPA does not always ensure that each of the estates listed on the annual open reports include anticipated closing dates, as required.

Open Estates Are Not Consistently Reported to the Surrogate's Court

Chapter 59-A, Article 11, § 1109 of the Surrogates Court Procedure Act states that PAs are required to file semi-annually with the Surrogate's Court a report of every estate they administer which has not been fully distributed within two years from the date when the first permanent Letter of Administration was issued. The auditors selected a sample of 10 estates from the active dataset

[33] In its response to the Draft Report, NYCPA argues that the four monthly reports were not submitted to the Comptroller's Office due to "an email mistake," rather than an operational lapse. NYCPA lacks a protocol to verify that reports are delivered to the appropriate parties; these reports were anywhere from five to nine months late. NYCPA did not notice this lapse until auditors flagged this issue.

[34] Comptroller's Directive 28 specifically prescribes that all "closed or finally settled accounts" be reported to the Comptroller's Office, irrespective of the total value of the estates.

and found that four (40%) were not included in one of the three semi-annual reports (covering the period January 1 through June 30, 2023) reviewed by the auditors.

Complete and accurate reporting to authorities on NYCPA's activities ensures accountability and transparency. In addition, it helps to identify and address potential issues.

Other Matter

The Deputy PA and one of the Intake Clerks are related and have worked at NYCPA for over 20 years. According to the City's Conflicts of Interest Board (COIB), a public servant cannot supervise or be supervised by their spouse, domestic partner, child, parent, or sibling. A public servant cannot take any official action that would affect the employment of these individuals such as participation in their hiring and performance evaluation. If the public servant abides by these restrictions, they can work for the same City agency and even in the same office.

NYCPA officials stated that the Intake Clerk is only under the PA's direct supervision and does not report to and is not evaluated by the Deputy PA. NYCPA officials stated that COIB was aware of the relationship between the Deputy PA and the Intake Clerk and was satisfied that the Intake Clerk was only under the PA's supervision. However, officials did not have documentation supporting this statement. Subsequently, NYCPA officials provided auditors with email correspondence dated November 21, 2024, confirming that COIB was informed of the arrangement in April of 2022. NYCPA should have retained this documentation on file, at the time (two and a half years ago).

Recommendations

To address the abovementioned findings, the auditors propose that NYCPA should:

Improve its oversight over searching, collecting, or safeguarding decedents' personal property:

1. Strengthen its oversight over investigators' searches of decedents' premises to ensure that investigators consistently document their searches on the Investigator's Reports and Decedent's Inventory Records.

   ***NYCPA Response*:** NYCPA did not directly address this recommendation.

   ***Auditor Comment*:** Despite the findings identified, NYCPA continues to assert that it fulfills its obligation to identify, collect, and safeguard decedents' assets. The auditors have provided evidence to the contrary and urge NYCPA to implement this recommendation.

2. Establish target timeframes for (1) conducting initial searches of decedents' premises and (2) appraising personal property that is collected and not on hold.

   ***NYCPA Response*:** NYCPA did not directly address this recommendation, but its arguments suggest disagreement.

   ***Auditor Comment*:** In the absence of established timeframes for conducting initial searches and appraising personal property not on hold, NYCPA potentially places personal property at an increased risk of loss or theft or devaluation and delays the closing of estates. The auditors continue to recommend that NYCPA establish target timeframes in these areas.

3. Ensure that it continues to follow the newly implemented practice of securing personal property in tamper-proof clear plastic bags with evident seals containing pre-printed inventory numbers that identify the bags for personal property collected for its decedents.

   ***NYCPA Response*:** NYCPA did not directly address this recommendation; however, its comments suggest agreement.

4. Ensure that it uses CompuTrust to timely record inventory transactions for each estate pertaining to real estate and personal property as required by the PA Guidelines and that it adequately itemizes decedents' personal property to include detailed descriptions identifying the property collected, including the type and quantity of items found.

   ***NYCPA Response*:** NYCPA did not directly address this recommendation.

   ***Auditor Comment*:** Without detailed inventories of decedents' personal property recorded in CompuTrust, NYCPA has limited assurance that estate property is completely and accurately accounted for. The auditors reiterate the importance of implementing this recommendation.

Improve its oversight over the identification, collection, and disposal of decedents' financial assets:

5. Establish controls to ensure that when assets at a financial institution are identified the agency promptly: (1) contacts the financial institution to obtain the account balance; (2)

collects any account funds from the financial institution; and (3) persists in these efforts until all identified amounts have been collected and credited to estate accounts.

***NYCPA Response*:** NYCPA did not directly address this recommendation.

***Auditor Comment*:** The audit found insufficient evidence to demonstrate that NYCPA took appropriate action to contact financial institutions to obtain account balance information, collect account funds from financial institutions, and ensure that all identified amounts are collected and credited to the estate accounts. NYCPA should implement this recommendation and establish better controls over the identification of decedents' assets at financial institutions.

6. Ensure that it routinely checks the OSC website for open cases to identify potential estate assets and pursue collection where possible and ensure that appropriate documentation of unclaimed funds appears in estate files.

   ***NYCPA Response*:** NYCPA did not directly address this recommendation.

   ***Auditor Comment*:** The auditors found no evidence in the estate files that searches were conducted by NYCPA's attorneys as called for in its policies. NYCPA should implement this recommendation to strengthen its oversight over the identification, collection, and disposal of decedents' financial assets. NYCPA's current measures are inadequate.

7. Investigate three unclaimed accounts identified by the auditors and pursue collections where possible.

   ***NYCPA Response*:** NYCPA did not directly address this recommendation; however, its comments suggest agreement.

8. Maintain up-to-date inventory lists of stocks and bonds collected from decedents' estates, liquidate them and deposit the funds in the decedents' estate accounts in a timely manner. For stocks and bonds that are inactive or for which there are living beneficiaries, the agency should update their inventory lists to reflect the current status.

   ***NYCPA Response*:** NYCPA did not directly address this recommendation; however, its arguments suggest disagreement.

   ***Auditor Comment*:** The auditors stand by this recommendation to correct deficiencies in the accuracy of inventory lists. The use of CompuTrust in NYCPA's practices would help the agency to better track personal property, including stocks and bonds, and minimize risk of loss.

Improve its record keeping practices:

9. Ensure that all documents are maintained within the estate file to support various stages of its estate administration process, including the initial search and subsequent visit to a decedent's premise, collection of a decedent's assets, sale of real estate property and co-ops, disbursements to pay decedent's creditors, and any issues or delays impacting the timely resolution of estates. For real properties and co-ops not sold for an extended period, there should be documentation in the file explaining sale delays.

   ***NYCPA Response*:** NYCPA did not directly address this recommendation; however, its comments suggest partial agreement.

Auditor Comment: NYCPA did not address part of the recommendation that they document disbursements and delays in estate files when real property and co-ops are not timely disposed of. Such documentation is needed to address poor recordkeeping identified during the audit.

Improve its controls over the closing and reporting of estates:

10. Ensure that estate cases are closed in a timely manner with reasons for delays clearly documented in the estate files.

    NYCPA Response: NYCPA did not directly address this recommendation; however, its arguments suggest disagreement.

    Auditor Comment: The auditors reiterate the need to make improvements in this area. In one particularly egregious case, one estate remained open for nearly 15 years, but there was nothing in the estate file to explain this.

11. Investigate the unassigned cases identified by the auditors to determine whether they should be administered by NYCPA or closed, and their statuses updated accordingly.

    NYCPA Response: NYCPA did not directly address this recommendation.

    Auditor Comment: NYCPA argues in its response to this finding that cases may remain "unassigned" for various reasons but fails to provide evidence that any of these reasons contributed to the 1,841 estates cited in this audit as remaining "unassigned" for six months or longer. It should be noted that 89 (5%) of those estates remained "unassigned" between approximately 10 to 27 years. NYCPA should implement the recommendation to address its deficiencies in process.

12. Ensure that payments are adequately supported and that accountings and close-out memos (where applicable) are prepared and maintained in the decedents' estate files.

    NYCPA Response: NYCPA did not directly address this recommendation.

    Auditor Comment: NYCPA's current process does not demonstrate that assets are properly accounted for and that all distributions are appropriately made. This should be corrected.

13. Report information concerning its open and closed cases to applicable oversight authorities as required.

    NYCPA Response: NYCPA did not directly address this recommendation.

    Auditor Comment: NYCPA's failure to fulfill its reporting obligations are well documented; it should take steps to ensure this is corrected in the future.

Recommendations Follow-up

Follow-up will be conducted periodically to determine the implementation status of each recommendation contained in this report. Agency reported status updates are included in the Audit Recommendations Tracker available here: https://comptroller.nyc.gov/services/for-the-public/audit/audit-recommendations-tracker/

Scope and Methodology

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). GAGAS requires that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions within the context of our audit objective(s). This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit was January 1, 2022 through June 30, 2023.

To obtain an understanding of the responsibilities and regulations governing NYCPA, the auditors reviewed and used guidelines, policies, and procedures, as audit criteria, including the following:

- The February 2012 *Guidelines for the Operations of the Offices of the Public Administrators of New York State*;
- Title 2, § 72.1 (Report of open estates administered by public administrators of the counties within the City of New York), of the Rules and Regulations of the State of New York;
- Articles 11 and 18 of the State Surrogate's Court Procedure Act;
- *Interim Report and Guidelines of the Administrative Board for the Offices of the Public Administrators Pursuant to Surrogate's Court Procedure Act* § 1128", dated October 3, 2002;
- *Investigator Procedures and Reporting Requirements*, dated September 29, 2017 (NYCPA's internal procedures);
- *Procedures for Case Managers*, dated July 28, 2023 (NYCPA's internal procedures);
- *Procedure for Sending Apartment Search Photos to Appraiser*, dated December 30, 2020 (NYCPA's internal procedures);
- *Procedure for Redeeming Savings Bonds*, dated September 24, 2019 (NYCPA's internal procedures);
- *Procedure for Closed Bid Auctions*, dated April 3, 2020 (NYCPA's internal procedures);
- *Cash/Coin Counting Procedure,* dated April 20, 2018 (NYCPA's internal procedures);
- *Frequently Asked Questions* obtained from the NYCPA website;
- Comptroller's Directive 1, *Principles of Internal Control* (sections used as audit criteria for assessing NYCPA's internal controls included § 5.4, Control Over Computer Information Processing, § 5.5, Physical Control of Vulnerable Assets, § 5.7, Segregation of Duties, § 5.9, Accurate and Timely Recording, and § 5.11, Appropriate Documentation of Transactions and Internal Controls);
- Comptroller's Directive 28, *Reporting Requirements for Public Administrators*; and
- The City of New York Department of Investigation's *Standards for Inventory Control and Management*.

The audit team reviewed the organizational chart for NYCPA and identified key officials to be interviewed to gain a general understanding of NYCPA's operations and its controls over the processes significant to achieving the audit objectives. Specifically, the audit team interviewed the PA, the Deputy PA, an Investigator, the Intake Clerk, and a Case Manager.

To obtain an understanding of CompuTrust and its various features and functions as they relate to the administering of decedents' estates, the audit team reviewed the CompuTrust manual provided on July 31, 2023, and observed a demonstration of the system.[35] During the demonstration, for each estate, the audit team learned about several screens, including (1) the decedent profile screen (which contains various tabs including the address tab, probate tab, accounting tab, relatives/interested parties tab, and funeral tab), (2) the transaction inquiry screen (which shows the assets collected and disbursements made), and (3) the creditor claims screen (which shows the claims against the estate).

The audit team observed the process of how NYCPA inventories personal property (jewelry, rare and foreign coins, stocks, bonds, and electronic devices) collected by the investigators during their searches of decedents' premises. In addition, the audit team observed the seven locked safes, six locked cabinets, as well as the two storage rooms that store the inventoried personal property collected by the investigators. The audit team also observed the presence of surveillance and security cameras in the room and outside the room containing the safes and cabinets as well as in the storage rooms.

On October 17, 2023, NYCPA provided the audit team with the following datasets:

- An active dataset consisting of 4,702 active decedent estate cases (all cases that were active at any point during the period January 1, 2022 through June 30, 2023); and
- A closed dataset consisting of 1,364 closed decedent estate cases (all cases that were closed at any point during the period January 1, 2022 through June 30, 2023).

The audit team conducted data integrity tests of the two datasets, to check for gaps, blank fields, and questionable entries (including duplicates and clearly anomalous information). The audit team also reviewed the datasets for dates among different date fields that appeared illogical. To test for data accuracy, the audit team selected certain fields in the two datasets for sampled files (e.g., dates the estates were received, dates that the estates were closed, dates of death, decedents' names, current status code, current status date) to determine whether the information matched the information recorded in CompuTrust.[36] To test for data completeness, the audit team obtained access to all the paper active and closed estate files for the period January 1, 2022 through June 30, 2023, maintained by NYCPA, and randomly selected 25 estates (15 active and 10 closed estates). The audit team then determined whether the decedent estates were recorded in CompuTrust and were recorded on the active and closed datasets.

Further, as part of the data completeness testing, the audit team obtained the Comptroller's Directive 28 Monthly Report of Closed/Settled Accounts for the period January 2022 through June 2023 and randomly selected six months to compare the list of closed estates as listed in the reports to the estates listed on the closed dataset provided by NYCPA.[37] The purpose was to

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[35] NYCPA uses CompuTrust to manage these estates and assets because it provides a fully secure environment for managing investments and assets, client financial activity, and caseworker activities. During the demonstration, the audit team noted many transactions for decedents indicated as "Interest" earned. There is a program within CompuTrust whereby an interest total is manually entered from each of NYCPA's two "pooled" bank accounts. The program then uses the average daily balance method to allocate the interest to all the active decedents' estates with monies in their CompuTrust accounts. The source of the interest total that is manually entered comes from the monthly bank statements. NYCPA explained to the auditors that there are internal controls in place to ensure that the interest manually entered is accurate and appropriately allocated to the respective estates. It should be noted that the auditors did not test whether these internal controls were in fact operating as intended.

[36] NYCPA provided the audit team with read-only access to the scanned files in the P-Drive as well as CompuTrust.

[37] The six random months were as follows: January 2022, February 2022, July 2022, September 2022, November 2022, and May 2023.

determine whether the estates were listed on the datasets, and if so, whether they were listed accurately.

For the same six months, the audit team also compared the estates listed on the closed dataset to the Comptroller's reports to determine whether all closed estates were reported to the Comptroller's Office, and if so, whether they were listed accurately. In addition, the audit team requested and reviewed the Report of Open Estates that NYCPA filed with the NYS Comptroller for Calendar Years 2022 and 2023. The audit team reviewed the semi-annual reports that NYCPA filed with the Surrogate's Court for the periods: (1) January 1, 2022 through June 30, 2022; (2) July 1, 2022 through December 31, 2022; and (3) January 1, 2023 through June 30, 2023. The audit team also selected a sample of estates listed on the active dataset provided by NYCPA to determine whether they were included in the annual and semi-annual reports. In addition, the audit team selected a sample of estates listed on the annual and semi-annual reports and determined whether they were listed on the active dataset.[38]

The auditors selected 30 estates from the active dataset and 20 estates from the closed dataset, for a total of 50 estates for detailed testing.[39] The auditors determined whether appropriate documentation was sent to all financial institutions to collect the decedents' assets. Further, the auditors selected the top five dollar amounts of assets (e.g., sales of rare coins, jewelry, automobiles, real estate, stocks, and bonds; and monies collected from the closing of bank accounts, etc.) that were recorded as having been collected. The auditors reviewed supporting documentation, including bank deposit information and determined whether NYCPA actually collected these assets and deposited them in NYCPA's "pooled" bank accounts, and whether the assets were accurately recorded in CompuTrust.

In February 2024, the auditors determined whether the OSC website (public database of unclaimed funds) reported any unclaimed funds for the 50 sampled decedent estates and whether the funds were identified and claimed by NYCPA. For any unclaimed funds identified by NYCPA, the auditors reviewed the bank deposit information and determined whether NYCPA actually collected these assets and deposited them in NYCPA's "pooled" bank accounts and whether these assets were accurately recorded in CompuTrust. The auditors also reviewed LexisNexis-Accurint (government database) to determine whether the decedents owned any real estate properties, cooperative apartments, and/or automobiles and whether NYCPA identified all these properties.[40]

The audit team reviewed the last three auction sale reports for personal properties and selected the top five dollar amounts from each of the reports to verify whether the proceeds from the sales had been accurately recorded in CompuTrust and were deposited in NYCPA's "pooled" bank accounts.[41]

[38] The audit team sorted the active dataset by code 020 (permanent letters) and chose 10 of the estates with the oldest current status dates. Then, the auditors determined whether these 10 estates were listed accurately on each of the five reports (the two annual and three semi-annual reports) and chose two estates from each of the five reports with the highest dollar amount of the gross estates and determined whether they were listed accurately on the active dataset.

[39] There was one decedent estate that was on the active dataset provided to the audit team on October 17, 2023. However, when the auditors searched CompuTrust in January 2024 to conduct their detailed testing, they determined that the estate had already been closed as of December 2023.

[40] The auditors searched LexisNexis-Accurint for a total of 34 estates as there was insufficient personally identifiable information to search LexisNexis-Accurint for the remaining 16 estates.

[41] The auditors reviewed the July 26, 2023, August 17, 2023, and November 28, 2023 auction sale reports and selected 8 amounts associated with 7 decedent estates.

The auditors reviewed the list of real estate and cooperative apartments managed by NYCPA during the period January 1, 2022 through February 29, 2024 to determine the status of these properties and whether they have been sold or not yet sold. For sold properties, the audit team selected the top 10 sale price amounts and determined whether: (1) the proceeds from the sales were recorded in CompuTrust, (2) there was adequate supporting documentation (bids, emails from brokers summarizing the offers from potential buyers, emails from NYCPA summarizing counteroffers made to potential buyers, checks, sales/closing documentation), and (3) the proceeds from the sales were deposited in NYCPA's "pooled" bank accounts. In addition, the audit team compared the sales price for residential homes and condominiums to the finalized estimated market value and assessment information prior to the sale year as recorded on DOF's website. For properties not sold, the audit team determined the length of time that they have been under NYCPA's management available for sale, and for those properties with a long holding period (over one year), the auditors determined why they have not been sold.

For the 50 sampled estates, the audit team reviewed any Investigator's Reports prepared by the investigators to determine: (1) how long it took the investigators from when the estate file was received by NYCPA to conduct a search of the decedent's residence, (2) whether residence searches were appropriately documented, and (3) whether the reports had required signatures.[42] Further, the audit team reviewed the uploaded photographs found in the scanned files and compared them to the Investigator's Reports to determine whether the inventoried items as found in the photographs were properly documented in the reports.

To review the process of securing jewelry and other valuable assets collected, the audit team selected: (1) 25 items from the safes and traced them to the inventory and appraisal records to determine whether they were properly inventoried and accounted for, and (2) 25 items from the inventory lists and traced them to the items stored in the safes and appraisal records to determine whether they were properly accounted for and secured. For the sampled 50 active and closed estates files that had Investigator's Reports where personal property was identified, the audit team obtained the inventory, appraisal, and/or sale records for the jewelry and other valuable assets collected (e.g., rare and foreign coins, stocks, and bonds). For any items not sold, the auditors traced these items to the items stored in the locked safes to determine whether they were properly accounted for and secured.

For 20 of the 50 sampled estates, the auditors verified whether proper procedures were followed for closing-out the decedents' estates based on the dollar value of the gross assets. The audit team selected the top 5 dollar amounts of claims recorded as having been paid to determine whether: (1) the PA requested known creditors to file claim(s) against the estates, (2) creditors submitted claims against the estates, (3) the PA appropriately paid the creditors the amounts due, (4) the PA appropriately paid the DOF and NYCPA statutory commissions, and (5) accurately recorded the payments amounts in CompuTrust.

Finally, for the 50 sampled decedent estate cases, the audit team determined the length of time cases had been opened or re-opened. For active cases, the audit team calculated the length of time between the dates that the estates were opened or re-opened (based on the CompuTrust Status Code History screen) to the date of October 11, 2023 (the latest status date listed on the active dataset). For closed cases, the audit team calculated the length of time between the dates

[42] The auditors found that 16 estates had Investigator's Reports. In total, there were 30 Investigator's Reports prepared by the investigators: 16 pertaining to initial searches of decedents' premises and 14 (associated with 7 estates) pertaining to additional visits to decedents' premises after the initial searches were conducted. The reasons for these additional visits included the investigators escorting appraisers to evaluate the commercial value of a decedent's personal property or escorting bidders at a closed bid auction. In addition, for the 16 estates, the auditors found 11 Decedent's Inventory Records.

that the estates were opened or re-opened (based on the CompuTrust Status Code History screen) to the dates that they were closed or re-closed. According to Chapter 59-A, Article 11, § 1109 of the Surrogate's Court Procedure Act, each PA is to file a report every six months with the Surrogate's Court listing each estate that has not been fully distributed within two years. Thus, the audit team used two years as a benchmark for this test.

Although the results of the tests involving samples were not projectable to their respective populations, these results, together with the results of other audit procedures and tests, provided a reasonable basis for determining whether NYCPA conducted proper research to identify the decedents' assets and accurately accounted for and properly safeguarded the estates' assets.

Public Administrator

County of New York

DAHLIA DAMAS, *Commissioner*
Public Administrator
VARAPORN FANG, *Deputy Commissioner*
Deputy Public Administrator

January 8th, 2025

By Electronic Mail

Maura Hayes-Chaffe
Deputy Comptroller For Audit
MHayes1@comptroller.nyc.gov

Re: Public Administrator County of New York Response to Audit on Estate Identification and Management Practices on New York County Public Administrator's Office ME23-100A

Dear Maura Hayes-Chaffe:

Please see the attached written response to the draft report received on December 13, 2024 for the above-referenced audit.

Sincerely,

Dahlia Damas

Dahlia Damas
Public Administrator

Cc: Varaporn Fang-Deputy Public Administrator

Public Administrator

County of New York

DAHLIA DAMAS, *Commissioner*
Public Administrator
VARAPORN FANG, *Deputy Commissioner*
Deputy Public Administrator

January 8th, 2025

Re: Public Administrator County of New York Response to Audit on Estate Identification and Management Practices on New York County Public Administrator's Office ME23-100A

The office of the Public Administrator of the County of New York is one of the smallest of the City's agencies, servicing thousands of our fellow New York County New Yorkers in a most dignified manner. During the Covid-19 pandemic, the Office of the Public Administrator of the County of New York's frontline workers worked diligently every day to help bury decedents and to secure the necessary assets to pay for the funerals of those who died alone. Continuing to this very day, these frontline workers perform this sensitive work under the most dangerous and toxic conditions. These workers, who fulfill their duties by working every day in the field and in the office (not remotely), are some of the most dedicated and caring City workers around. The auditors were only able to scratch the surface of what these workers do at and/or for this agency and its constituents. The auditors reviewed our daily procedures and paperwork but were unable to grasp within their time frame, the magnitude of the work performed or understand the agency's role providing uninterrupted service to the public during catastrophic emergencies such as September 11th and natural disasters such as Superstorm Sandy and, most recently, the pandemic. While New York City was on lock down, this agency continued its daily work, which included burying New Yorkers who had died alone from the deadly virus. Unfortunately, the audit team did not go into the field with our investigators, who regularly don protective gear and who work in hoarder like conditions in often-toxic residences. While the auditors interviewed staff members on procedures and protocols via conference calls, it is evident that a deeper analysis should have been conducted to better understand the challenges and difficulties faced everyday by the staff and how they are able to successfully navigate those challenges. The audit team significant hours on the computer reviewing hundreds of papers and documents and hours reviewing estate files and financial documents but found no evidence of theft or impropriety. The auditors have not witnessed the everyday conversations between our Case Managers, who undertake the complex task of locating assets, by contacting depositaries and then endeavoring to collect assets to bury decedents with solemnity, decency and respect. They have not witnessed the daily interactions of this office's Intake Clerk who deals with the public, who regularly displays compassion to distraught family members who seek answers and guidance to better understand how to navigate the often-sudden deaths of their loved ones. Most of all, the auditors need to review the history of this agency's long journey, our implementation of improved practices and procedures and the progress we have made in a continuously changing technological world. We suggest that the audit team focus more on dedicating time in the future to better understand the enormous task the agency has to accomplish daily operations in a fast-paced ever-changing world.

This agency requests that the audit team implement in their next audit a more hands-on approach, by traveling side by side with our investigators, as they visit the very often bug infested/hoarder like conditions of the homes of the New York County residents we serve; to sit with our Case Managers, who must often stay on the phone for hours at a time, with brokerage company/bank representatives just to confirm and secure sufficient assets to bury these individuals; to better and more fully understand the history and role changing technology has played and its continuing effects on how case documents are now preserved and stored as opposed to how they had been stored in the past.

In observing how the auditors conducted this most recent audit, it was concluded that the audit team at the onset needed to have a more basic foundation or understanding of the work this office performs and the very difficult conditions under which it is performed. We advised the audit team that it was imperative and critical to their work to better understand our practices, procedures and protocols, before seeking to suggest broad changes and giving advice. Audits are important, but we strongly believe that a more thorough understanding of the role, function, history, law and complexity of this office must be thoroughly reviewed and understood by the audit team before and during the audit review process. An example of this may be found in the section of the report concerning the appraisal of personal property. While criticizing the length of time to appraise personal property, the auditors failed to document the sheer volume of personal property collected by the investigators and the number of people involved in the process to ensure that all property is securely removed for appraisal and then safely returned. The auditors propose establishing a "time target" for appraising personal property but ignore the realistic constraints the office faces—volume and the necessary safeguards employed to protect personal property, a time-consuming task. It must be noted that the auditors were able to locate the personal property stored for every estate they inquired about. Another example may be found in the repeated references in the report to a lack of documentation in the "scanned" estate files. Notably, the draft report did not disclose that the office also maintains hard copy files and that hard copies of <u>every supporting</u>

document requested was physically provided to the auditors. They failed to acknowledge or include in their report that scanning procedures had not yet been fully implemented at the time some of the requested documents were generated, but that hard copies were and are always kept for documentation/back-up purposes. It is a well-known fact that scanning alone is not full proof. Hard copies of documents are regularly kept in order to supplement evidence as the same may be called upon. Both hard and scanned copies are an acceptable means of preserving documentation.

It should be noted that the audit team found no evidence of impropriety or misuse in this office. The procedures this office has in place to safeguard property are effective. While we do not claim perfection, continually we strive for it.

This office and its dedicated workers toil daily to do their best under extremely difficult conditions and often in adverse circumstances. We accept valid suggestions and are open to consideration of any supportable insights. We implored the audit team to use a more humanistic approach, just like this agency does daily as we continue to service our deceased fellow New Yorkers in a most dignified, respectful, and caring manner. Lastly, we do not seek any recognition for doing our jobs. Our gratitude is in knowing that we provide dignity to those whose families and estates we serve.

Additional Response from New York County Public Administrator

January 8th, 2025

Re: Public administrator County of New York Response to Audit on Estate Identification and Management Practices on New York County Public Administrator's Office ME23-100A

The New York County Public Administrator only deals with accurate facts that are governed by rules, laws, procedures, structure and organization. These facts and circumstances of each decedent and estate administration are ascertained through this office's procedures and independent investigation which is done on a case-by-case basis. No two estate administrations are the same and the facts and evidence learned during the course of this office's investigation guide the agency in its path forward to ensure that a thorough administration of each individual decedent's estate is properly and carefully conducted.

The auditors were presented with these facts by the Public Administrator and by counsel to the Public Administrator both during the course of the audit and in meetings which followed, and they have in our analysis been unable to grasp the many layers and complexities involved in the administration of estates. The facts are critical in their ability to fully understand the case-by-case analysis and circumstances that are needed to administer estates. Facts matter and accuracy matters. Interpretations of facts should not be the defining factors in making conclusions and recommendations, but instead making recommendations that are well informed and accurate would be more advantageous to both the auditors and this office. Recommendations will always be fully analyzed and enthusiastically reviewed by this office before they can be implemented. The procedures and facts that are presented below are ultimately the foundation and integrity to which the Office of the Public Administrator adheres.

Fact #1:

Every case presented to the Office of the Public Administrator is analyzed at the onset for validity and accuracy by the Intake Department.

We have had cases reported from nursing homes where individuals were not dead but sent to a different nursing home. We have had cases reported from building management where there's family with priority to administer the estate and the Public Administrator should not have been notified. Because accuracy is important, the Office of the Public Administrator conducts a thorough search on reported cases prior to pursuing a search of the decedent's residence.

Cases initially reported to the Public Administrator from the Medical Examiner's Office are still under the research phase, meaning the Medical Examiner is also in the process of conducting a search for family members. This also requires a full database search by this office to gather information and send letters to potential family members who may have priority to administer the estate. The process of identification, analyzation and investigation takes approximately three weeks from the filing receipt of the Report of Death.

Not all cases reported are cases that are administered by the Public Administrator. There are cases that fall under the heading of "Citation" This means that the Public Administrator was cited in a court case which has the potential to become a case in which the Surrogate's Court may appoint the Public Administrator but such as case must first be reviewed, a process which often takes months before an appointment is made.

There are circumstances where the decedent's friend, neighbor or family member may notify the Office of Public Administrator that the decedent had a will. There are other instances where another individual may be still living in the decedent's apartment, in which case NYCPA investigators cannot conduct a search. Yet other cases involve circumstances where the Investigators must go to the apartment building several times to verify if there are still individuals living the decedent's apartment in attempts to search the apartment.

The time frame needed to ascertain the nature of the reported case can vary depending on the circumstances of the decedent's history; for example, there may be family members with priority over the Public Administrator who reside in a different country. In cases such as these, the family may have the authority to pursue the appointment of an administrator through the Surrogate's Court, a process can which can take a significant amount of time. In cases such as these, the Intake Clerk will provide information and direction to the family members to contact the Surrogate's Court.

Fact #2:

Once a case is determined to be a potential case to be administered by the Public Administrator and after a thorough investigation is completed by the Intake Department, a search of the decedent's residence is scheduled and a team of two Investigators conducts the residence search in the presence of a witness from the building management.

Official documents stating the authority of the Office of the Public Administrator to enter the apartment must be provided to the building management for the Investigators to schedule a search of the residence. A witness from the building management must be available on the scheduled date of the search.

At least 80% of apartments searched by the team of Investigators are in hoarder conditions and are dangerous and toxic environments. Many times, the Investigators are initially unable to even enter or walk through the apartments. Often, the apartments must be fumigated for bed bugs, mites and other pests prior to a search. Clear paths must be established for the investigators to navigate through the apartment to conduct a search in a safe manner.

If an original will is found in the decedent's residence, the Public Administrator's Office will submit the will to the Surrogate's Court to be probated. If a copy of a will is found, the attorneys assigned to the estate are notified and they pursue a search to retrieve additional information as to the whereabouts of an original will. If information is found that the decedent owned a safe deposit box, a search is scheduled with the bank to open the safe deposit box in pursuit of a possible original will. All work will be suspended on the estate if an original will is located.

Conclusion from Fact #1 and Fact #2:
The audit team was unable to incorporate these facts in their findings and inaccurately noted searches take months after receiving notification of death. They refer to the guideline that searches should be conducted as soon as possible, but they failed to fill in the gaps with important facts as to why certain searches took a longer amount of time.

Fact #3:

An Estate may remain open and for various reasons. All estates cannot be categorized into one general category and expected to close within the same time frame. Each decedent lived an individual life with an individual set of circumstances.

Estate assets which make up the value of the estate include, but are not limited to real property, personal property, bank accounts and other assets that belong to the estate must be marshaled.

A large estate with a variety of different types of assets must be collected from a wide range of sources including financial institutions is vastly different from a small estate with minimal or no assets to collect.

There is a minimum of seven-month collection process, which depending on the size of the estate, begins at the date of decedent's death or the date by which letters of administration issued to this office by the Surrogate's Court. Identification and collection of assets is a multi-step process which the Case Managers arduously pursue.

Estates with heirs must be identified. An estate where possible family members are identified requires the presentation of proof at a kinship hearing and a decision on the proof presented by the Surrogate's Court to determine where to distribute the estate's net assets. This process can take more than a year and is completely different from an estate with no known heirs.

All estates are assigned, meaning "the category they fall into" prior to being reviewed by the estate attorneys. Case Managers must many a times wait to receive the marshaled assets before assigning the category to an estate. Accordingly, the assigned tab information remains unassigned until an accurate determination can be made.

Asset collection can take weeks and even months with Case Managers often making several written attempts and phone calls to collect these assets from financial institutions. The attempts to collect assets are well documented by the Case Managers in the files.

Death certificates are required by banks, financial institutions, retirement funds and brokerages to collect assets. The decedent must first be buried before a death certificate is issued, ordered, and used to collect assets.

Lack of information, such as full account numbers and social security numbers of decedents can delay the process of collection due to security measures the financial institutions require adherence to.

There may be family who show up later in the administration process who inform the Public Administrator that they will petition the Court to be appointed as the administrator, at which time there may be a pause or hold placed on the estate.

Conclusion from Fact #3:

The auditors failed to disclose the various information provided to them regarding their statement that "estates remained open for more than two years, and in some cases, NYCPA allowed estates to remain unassigned". It is the persistence and dedication of the Case Managers that enable assets of the estate to be collected and claimants to be notified. The audit team has not acknowledged the complex and persistent work done to retrieve assets from banks and financial institutions and to liquidate these assets. Research must be done to confirm whether the decedent is the owner of an asset and if a beneficiary exist before a Case Manager attempts to collect these assets. Banks have long and arduous processes that many times require multiple attempts to collect assets. In conclusion, the audit team was unable to use the information provided to them to complete an accurate factual analysis of the time frame required for each individual case to complete collection of assets and ultimately close.

Fact #4:

Hard copies of every bank deposit slip from past years are stored and inventoried. Scanned copies of the receipts have been implemented in the past few years and hard copies are always included in the office's standard operating procedure.

All asset collections are recorded in the database system under each individual estate name and number assigned to the estate.

All hard copy receipts were provided to the auditors to support the documentation of deposits.

It was not noted by the auditors that they referenced only notably older estate files that the deposit slips were not scanned, and that the hard copies for all the deposits they requested were promptly provided to them when they provided the specific names and estate numbers of the estates to the Public Administrator.

Conclusion from Fact #4:

The auditors failed to disclose that the Exit Conference report did not provide specific information on estate names and numbers, only vague references. Such relevant information was provided to the Public Administrator only after the request was made to the auditors to provide the necessary information. Once the requested information was received from the auditors, the Public Administrator promptly provided to the auditors the information they requested.

Fact #5:

The Public Administrator consistently reports open estate to OSC.

Conclusion from Fact #5:

The auditors failed to report that all the reports were created, and it was an email mistake that had occurred that prevented the attachment of some of the reports from being delivered to the email of the appropriate recipient at OSC. This was corrected and the reports that did not go through in the initial email were forwarded to the correct email before the end of the financial year. OSC confirmed the receipt of the reports with no issue. An emailing error is not an operational lapse. Reference to such should not be in the auditor's report.

Fact #6:

NYCPA fulfills its obligation to identify, collect, and safeguard decedent's assets as follows:

a) The resident search is videotaped, and pictures are taken of the apartment and its contents.
b) Any personal property and monetary assets collected are counted in front of the witness who signs off on the count.
c) All personal property and monetary assets are photographed.
d) All cash assets collected are counted by each investigator in the presence of a witness from building management and are signed off by both investigators and the witness.
e) The witness signs the Investigator Report.
f) All monetary assets and jewelry are promptly secured.
g) Cameras and alarms are placed in all secured areas.
h) Investigator Reports include pictures and copies of all cash and jewelry retrieved from the residence and a detailed tally.
i) The Investigator Report is scanned to the estate file.

j) Inventory of personal assets collected are recorded.
k) Cash/coins are verified and recounted by PANYC accountant and bookkeeper and witnesses and compared to the count from the initial search.
l) Jewelry appraisals are later conducted in a secure location with cameras and a detailed tally is scanned in the estate file, appraiser book and an appraisal scanned folder.
m) Appraisers review the contents in the residence such as furniture, artworks and determine if there are any items of commercial value that should be more closely researched and if it warrants being sold at closed bid auction or at an auction house.

Conclusion from Fact #6:

The procedures outlined and detailed in Fact #6 we concluded were not fully understood by the auditors. They reference the recording of the three items in a centralized list. They failed to disclose that the inventory and pictures listing these three items were documented in the Investigator's Report which is scanned in the physical estate file and includes a hard copy placed in the estate file. The one referenced Emmy award was even listed in the CompuTrust comment section. The items were all well documented beyond standard. We accept recommendations but require the audit team have a full understanding before any recommendation is made. The recommendation to record inventory in a centralized inventory list database, we feel, can be used as an additional tool to record information but should not be the main and only source. The actual photograph and scanning of the item inventoried are most important. It must be emphasized that a hard copy and scanned copy of the inventory and pictures placed in the physical estate file and other inventory locations are efficient and reliable ways to record and preserve data.

Fact #7:

In reference to the disposal of stocks and bonds:

1) When there are beneficiaries named on these stocks and bond, the Public Administrator cannot collect and dispose of these stocks and bonds as they are not an estate asset and do not belong to the estate. The financial institution will and should identify the beneficiary and notify them. The beneficiaries can collect the assets by filing a lost stock affidavit. The office does not dispose of bonds that are in the names of beneficiaries. This finding is incorrect, and the proofs were provided to the audit team.

2) All stocks and bonds in decedent's names requested by the auditors, except for one case where the company is no longer in business and there is an active search being done for the new company, were deemed "inactive". There were no stocks and bonds left unliquidated. The only stock is the one being actively researched to determine whether there is a valid successor company. Documentation was provided to the auditors to support this finding.

3) The audit team did not emphasize that most current stocks are recorded in a separate inventory list for retrieval by Case Managers. All stocks and bonds from 2022 and onwards were properly recorded on the list and copies and pictures scanned in the estate file.

Conclusion from Fact #7:

The auditors' conclusion that the NYCPA includes inactive stocks and bonds as well those for which active beneficiaries in its inventory list and does not is mischaracterized by the auditors. Incoming information on stocks and bonds are added to an internal inventory list, after research is completed and it's concluded that they are inactive or there are beneficiaries. We do not delete them from the lists and do not dispose inactive stocks and bonds. It's left for historical documentation. This information is also well documented by the Case Managers.

Fact #8:

The audit team failed to properly review documentation of the hard copy reports they referenced in which personal property was not documented. Once the specific information was provided by the auditors, the estate files reviewed produced the hard copy reports. Many of the references made by the auditors were for apartments that were released prior to the Public Administrator's involvement and/or appointment to the estate in which building managements had already released units. Once the Public Administrator requested and received the specific files the auditors referenced, the Public Administrator provided full documentation of the written reports in each of these cases and the evidence necessary to refute the auditors' claims.

Fact #9

The audit failed to disclose that documentation, especially in older estate files, are kept in hard copy format. They reviewed older estate files for scanned documentation but failed to retrieve the hard copies necessary to review their findings. Therefore, any inconsistency in records they refer to is in hard copy format, not always in scanned format. The Public Administrator requested that the audit team provide specific information on the specific estates that they referenced in the Exit Conference Summary and upon receiving that information the Public Administrator provided all hard copy supporting documents of the $1 Million in collected assets (BANK AND BROKERAGE STATEMENTS, CHECKS) that were referenced lacking documentation.

Conclusion from Fact #9:

The audit team was given the opportunity to review all documentation. However, mentioned only scanned copies. The auditors requested the prompt retrieval of information but failed to acknowledge that many of the estate files and information requested were from older estates. This office provided almost every estate file they requested. They also requested that specific documentation be placed in one Computer drive for their retrieval. The Public Administrator has multiple safeguards for documentation storage, hard copy inventory and most recently throughout the years scanned folders. Placing documentation into one safe drive in our assessment is not an optimal way of securing documented information.

Fact #10:

Each case must be assessed individually when conducting appraisals. A "time target" does not provide a full understanding of what is involved in administering an estate. It is very important that a full assessment of each estate be conducted to check for any information that may warrant a "hold".

It is the responsibility of the Public Administrator to review the full context of what's involved within each estate. Heirs must also be provided with a chance to state their preference on whether they want the jewelry sold if the estate has assets to pay creditors. A careful evaluation must be performed in connection with the estate attorneys and a thorough review of any memos or potential information that may be a deciding factor on whether to appraise and sell the jewelry must be thoroughly analyzed. Below are additional factors that must be considered:

a) Security measures must always be adhered to and are put in place to allow the careful appraisal of the jewelry.
b) The possibility of a family pursuing being appointed the administrator of the estate, in which case the jewelry appraisal is placed on hold.
c) Potential beneficiaries who need to establish kinship requesting a hold on selling the jewelry.

Fact #11:

After the Exit Conference, NYCPA provided a full response to the auditors concerning the six assets held by financial institutions totaling $208,584 (associated with two estates). They explained that three of those assets (associated with one estate), totaling $62,690, were life insurance or annuity contracts with designated beneficiaries. They explained that NYCPA filed a judicial accounting for that estate and reported these three assets in the appropriate information schedule of the accounting, noted the amounts and beneficiaries, and noted that these were not estate assets. The distributees appeared in the accounting proceeding and a guardian ad litem was appointed to represent the interests of unknown kin. Neither the distributees nor the guardian objected to the decedent's beneficiary designations on these assets and the accounting was judicially settled by decree of the Surrogate's Court. NYCPA acted properly in not collecting these assets. NYCPA believes the failure of the auditors to understand the difference between estate and non-estate assets underscores a major deficiency in their process.

The other three assets, totaling $145,894, involve an estate where NYCPA's investigators had to first conduct a lengthy investigation as to a possible Will, and where the letters of administration required by NYCPA to collect the subject assets did not issue to NYCPA until February 15, 2024, which is after the period covered by the audit. Asset inquiries were made after letters of administration issued. NYCPA notified the auditors prior to the preparation of their report that asset collection on this matter was beyond the scope of the audit. NYCPA stands by the actions it has taken on this matter and objects to the auditors findings, which are belied by the facts of this estate.

Fact #12:

Response to auditors analysis of to the unclaimed funds:

NYPCA stands by its statement that it will not pursue collection for nine of the accounts identified and disagrees with the conclusion of the auditors that these accounts "should have been identified and collected by NYCPA." The reasons are as follows:

- Accounts for three of these estates identified by the auditors are matters where NYCPA received a statutory notice following the death of an incapacitated person pursuant to Mental Hygiene Law 81.44. NYCPA's role under that statute is defined as "as stake holder or escrowee only, and the public administrator shall not, by virtue of this section, have a substantive role in administering the estate." (MHL 81.44[a][1]). In those three matters, the deceased was either survived by close family members with priority over the NYCPA to act, or the deceased had a will that was admitted to probate, or there was no indication in the guardianship that there were assets of the estate that required administration. No action was required by NYCPA
- Similarly, accounts for three other matters concern estates where an eligible family member had priority over the NYCPA to act.
- Lastly, four matters concerned estates that were previously administered by NYCPA and the estate funds were placed on deposit for the benefit of unknown kin. NYCPA does not reopen matters to collect additional assets from OSC where the estate has been fully administered and the funds collected from OSC are going to be placed back on deposit.

NYCPA will pursue the collection of the remaining accounts at OSC provided (a) the estate is a proper estate for NYCPA to administer, (b) the estate was not previously closed and the funds placed on deposit for the benefit of unknown kin, and (c) the asset in question is an estate asset.

Fact #13:

The PA is in constant communication with the attorney assigned to handle the sale of decedent's real property. The contract of sale, verbal communication and corresponding emails between the attorney, broker and the Public Administrator are crucial in the decision-making process. The real estate attorneys also document all transactions in the sale of real property. Detailed Documents such as the final contract of sale signed by the Public Administrator is the primary evidence that proves that the PA has evaluated and approved sale of the premises.

NYCPA is confident that the processes it has in place to value and list real estate ensures that the price received is the highest and best price. This includes having each property appraised by a certified real estate appraiser and obtaining market comparables from the listing real estate broker to support the proposed list price. The property is then publicly listed for sale with a licensed real estate broker who markets it for sale. All offers received are discussed with NYCPA and all counteroffers are authorized by NYCPA and presented to the listing broker to present to the potential purchaser. The appraisals and sale documents are a part of the estate file. NYCPA will ensure that the file also contains the documentation that substantiates the listing price, the offers, counteroffers and the accepted offer.

<u>Fact #14:</u>

In response to the auditors claim that zip lock bags and manila envelopes are not sealed in any way to prevent from being opened; closed and reopened, multiple times.

Multiple procedures, policies and chain of custody documentation are in place to secure personal property including alarm systems and cameras in storage facilities. There has been no incident of any lack of securing personal property or any unauthorized removal of personal property.

<u>Conclusion from Fact #14</u>:

The auditors request that the Commissioner and the Deputy Commissioner open the zip lock bags during the audit was denied due to the strict guidelines that adhere to the chain of custody. It was explained to the audit team that once a bag is reopened; the chain of custody is broken. <u>Our guidelines and policy were strictly adhered to.</u>

The auditors also asked that we use sealed plastic bags in the smaller inventories. We agreed to incur the cost of the large volumes of the sealed bags, but it must be emphasized that that the prior procedure in place for many years was adequate in securing the personal property. We receive recommendations and are eager to review them and apply them whenever appropriate. There were no issues with the prior procedure that was in place during the past years. During the audit the auditors conducted multiple retrievals to verify the jewelry location for different estates and were successful in <u>identifying all</u> of them.

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