

NASSAU COUNTY CLERK'S OFFICE RESPONSE TO THE NASSAU COUNTY COMPTROLLER'S OFFICE DRAFT AUDIT DATED JANUARY 12, 2007

Scope Limitations

The scope limitations cited in the audit were a direct result of Supreme Court Justice Davis's Court Order dated October 28, 2005.

As the Court concluded in the proceeding captioned: Weitzman v. Murphy, Sup. Ct., Nassau Co., Index No. 114126/06, the audit was to be undertaken "at appropriate times with minimal disruption of the day to day operations of the office being audited". Further, the audit was to be "completed within a reasonable time after it is commenced so that corrective action, if necessary, may be taken...". In keeping with Judge Davis's Order, County Clerk O'Connell's letter of February 10, 2006 indicated that immediate advice was sought as to the office's accounting procedures, to be gathered and presented on a non-partisan basis.

Use of a designated contact person

One 'scope limitation' faulted access through one Deputy, who was assigned as the "only contact person". Accordingly, a contact person, ergo, audit liaison, was designated by the County Clerk at the Comptroller's request.¹ In view of the well-documented staffing constraints the Clerk's Office has imposed upon it, it can only be surmised that this methodology was the most efficient way to furnish information and data, with one Clerk Office designee serving as a primary contact through whom all information would flow.

Use of copies rather than originals

Another 'limitation' cited relates to the fact that copies of documents were furnished. In view of the fact that previously provided paperwork was lost by the Comptroller's Office staff,² and that standard accounting practice accepts the use of copies, copies were furnished in compliance with the audit staff's requests.

Demonstrations in a controlled environment

In accordance with Judge Davis's order, Land Records cashiering was demonstrated to the audit staff in a controlled environment because it was the most effective way to demonstrate the recording of documents with minimal disruption of [the Clerk's Office] day-to-day operations.³ It was important that this recording demonstration take place away from the counter by a Clerk's Office staff member to avoid the appearance that the public was having its' transactions

¹ Correspondence of March 14, 2005, Comptroller Weitzman states, "It would be helpful if you could appoint an audit liaison with whom my staff could work out a mutually reasonable timeframe in which to conduct the audit and whom my staff could contact to obtain necessary information".

² During a Field Audit visit of March 23, 2006, a request by Bruce Kubart of the Comptroller's Office was made to furnish all documentation again, as he [Kubart] was unable to locate any documentation previously provided by County Clerk Murphy.

³ Howard S. Weitzman v. Karen V. Murphy (Index 14162/05) Conclusion –page 6 "...said audits should be taken at appropriate times with minimal disruption of the day to day operations of the office being audited".

scrutinized by a third party. Also, that any exposure of “personal identifiers” contained in any documents be avoided for the purpose of protecting the public against identity theft.

The Clerk’s Office has long been an advocate for constituents’ privacy rights. That commitment extends to being an unwitting participant in a field audit. Further, the staff is under significant pressure in serving the public on a daily basis, and on-site auditing would place an additional and unfair burden on the staff’s performance of routine functions. The controlled environment provided a venue within which the audit staff could more readily ask questions without compromising the Clerk staff’s duty to expeditiously and accurately process the public’s papers.

Court Records cashiering, conversely, was not demonstrated in a controlled environment, but rather in the Court Receiving Department. The audit staff witnessed the actual processes involved in the handling of court papers. However, matrimonial file mail was specifically removed in advance of the audit; matrimonial matters are governed under New York State Domestic Relations Law, which limits access to such documents for the protection of the parties to such proceedings. Accordingly, these and other documents, such as those protected under New York State Mental Hygiene Law are not matters of public record, and are only available to the parties or their attorneys. Therefore, processing these filings could not be effectuated before the auditors.

What the auditors witnessed was nonetheless an observation of the transaction recording system, BROWNtech, in use. The location of the demonstration for the field audit purposes was irrelevant, and the auditors should not have surmised that they could dictate such details.

Audit Finding 1, “Internal Controls”

Internal Controls/Segregation of Duties

Audit Finding 1, including Recommendations (a) and (b), reflects the immediate need for additional staff in this office. However, Comptroller Weitzman advised County Executive Suozzi by letter that a request for additional staff for the Clerk’s Office be blocked pending completion of the audit.⁴ The Comptroller’s letter creates an untenable staffing situation, refuting the advice of the auditors, as this deficiency is noted in Audit Findings # 3, 6, & 7. It can only be hoped that the Comptroller will assist in the Clerk’s ongoing efforts to obtain additional staff.

Further, County Clerk Murphy’s administration suffered from the same staffing inadequacies as her numerous requests for additional *accounting* staff to Civil Service were to no avail.

Lack of Segregation of Duties

As part of the budget hearings for this fiscal year, the Clerk went on record as disagreeing with a budget proposal that failed to accommodate the need for additional full time staff. A policy of no personnel increases in this department, where revenue growth and amplified demands (as evidenced by an astronomical increase in residential tax challenges and numerous Office of

⁴ Letter of May 12, 2006 statement: “Before your staff analyzes this [request for 15 additional staff]...I suggest that they await the outcome of our audit”.

Court Administration initiatives) on a staff that has not had an increase in its headcount since 1998, was not acceptable.

Therefore, in line with New York State Comptroller Hevesi's Accounting Procedures for County Clerks, the Accounting staff, consisting of one Deputy Clerk and two and a half FTEs, are the resources the County Clerk has available to provide for the accounting function.^{5 6} Any redeployment of staff would result in a diminution of services to the public with which the Clerk is charged under the State Constitution. This would negatively impact the ability to adhere to a strict timeline and maintain compliance with statutory obligations.

Additionally, the New York State Comptroller's Accounting Procedures for County Clerks sets forth a "Cash and Work Flow Chart,"⁷ with which this office complies.

Insufficient Managerial Oversight

The Deputy Clerk assigned to Accounting is listed as an 'active' employee on the County records because he has not retired. The Deputy answers directly to the County Clerk, who exercises supervisory oversight and discretion pertaining to financial matters on a global basis. The daily operational tasks are assigned to two full time and one part time (added by this administration) staff members, each of whom have different functions, to serve as a method of checks and balances.

The Clerk's Office no longer is making Investments in any bank (see Clerk's Response to Audit Finding 3). However, past practice was that the County Clerk was involved in and supervised all investments made by the Deputy Clerk.

To ensure that segregation of duties can be adequately performed by the limited staff size, the following procedures have been implemented:

- Each supervisor checks the employee's batch and initials it after review.
- The employee who verifies the cash receipts is not the employee who makes the deposits.
- An Accounting clerk verifies the amount of money collected against the system report.
- Another Accounting clerk, who verifies the batch a third time, prepares the deposit slip.
- The Deputy Clerk is not the only employee who performs the bank deposits.
 - The two other full time employees in the Accounting office also perform this function.
 - Job responsibilities rotate and staff is cross-trained.

For additional information, see Clerk's response to Audit Finding 6.

Lack of Written Policies and Procedures

⁵ Accounting Procedures for County Clerks – Alan G. Hevesi - Office of the State Comptroller - Internal Controls (pg 2) "Should the office force be so small that various operations must be performed by the same individual, the county clerk (or deputy county clerk) may have to assume some of the key duties to achieve segregation of functions".

⁶ Under Clerk Murphy, 2 Deputies were assigned to the Accounting functions.

⁷ Accounting Procedures for County Clerks- Alan G. Hevesi – Office of the State Comptroller — Page 4

The County Clerk's office has numerous departmental memoranda regarding office policies and cash handling, put in place by County Clerk Murphy and constantly updated and revised by the current staff, as circumstances dictate. All Clerk's office employees are required to acknowledge receipt by signing each procedure stating that they have both received a copy of and understand what is expected of them.

Unauthorized Transactions

As for 'unauthorized transactions', a fee adjustment is made by the cashier, and logged by the system on a 'Fee Exempt report.' It is agreed stricter controls be implemented. The Clerk's Office has developed a system for supervisory approval for exempt transactions that will be effectuated through the BROWNtech system.

The procedure contemplated includes a system where the supervisor will approve the fee exemption and will insert the reason for doing so. With regard to this transaction, as well as all pre-calculation and post-calculation functions, there is already an 'electronic fingerprint' as each transaction has a unique control number and each employee is assigned a user ID tying him to the transaction. This electronic fingerprint provides transparency to identify untoward conduct by unscrupulous employees.

Audit Finding 2, "Accounting Procedures and Records"

The Clerk is a collection agent exercising a non-delegable fiduciary duty for funds collected on behalf of and disbursed to other taxing jurisdictions and the Unified Court System.⁸ The majority of the funds collected are not remitted to Nassau County, nor are they assets of Nassau County.⁹ These funds cannot be co-mingled with the General Fund of Nassau County, which is under the Treasurer's purview, but must remain segregated. However, revenues remitted to Nassau County are recorded in the NIFS system, as the audit notes.

With regard to request for spreadsheets, e-mail records indicate the auditors received all of the Excel spreadsheets that are maintained for Clerk bank accounts. The Clerk's Office was not aware that there were any missing spreadsheets, as there were no subsequent requests made for this information. Any further spreadsheets requested would be furnished upon request.

Excel Spreadsheets

Excel spreadsheets are linked to each other and provide explanation for all staff members making adjustments to them. However, the Clerk's Office will have each Excel spreadsheet contain a more detailed key that would be self explanatory to anyone utilizing the spreadsheet.

For clarification, here are the general functions of each Excel spreadsheet:

⁸ "In the Judiciary, the controls of cash collected by a court or agency is the specific responsibility of the local court manager" (The Unified Court System's Financial Planning and Control Manual (Manual)). Pursuant to the Constitution, Art. 6 § 6, the Clerk is the clerk of supreme court.

⁹ Examples of the State role include, *inter alia*, clerk of supreme court and county court (County Law §525; CPLR §§8018, 8020); and agent of the State Commissioner of Taxation and Finance for collection and remission of real estate transfer tax (Tax Law §147).

- The General Account spreadsheet summarizes fees collected and disbursements.
- The Court Account spreadsheet summarizes fees collected and disbursements.
- The Mortgage Account spreadsheet summarizes money transferred in and disbursements.
- The Prepaid Account spreadsheet summarizes transfers to the General account and payments to individual accounts.
- The Refund Account spreadsheet summarizes refund checks written.

Open receivables are not maintained on a hand-written list. They are maintained on an Excel spreadsheet by one of the Accounting office staff members. Open receivables generally occur as the result of a payment error, i.e., an unsigned check that was not detected at the time of processing (see Clerk's response to Audit Finding 9).

The Clerk's Office will take the Audit Recommendation under advisement and look into the possibility of backing up its Excel spreadsheets more frequently.

As an additional layer of checks and balances, the Accounting office does not export data from our on-line banking into our Excel spreadsheets. To substitute the Clerk's accounting information with the bank's would compromise the integrity of the data.¹⁰ The Accounting office is also checking the bank's statements for their accuracy to ascertain that they balance against the Accounting office's ledgers. To import the online bank statements would prevent the Accounting office from detecting bank errors.

All of fees collected by the Clerk's Office are reconciled with system reports, deposit slips, spreadsheets, and bank statements.

In response to "frozen copy" reporting, see Clerk's response to Audit Finding 5.

Audit Finding 3, "Investment of Excess Funds"

General Municipal Law §11(5) allows the County Clerk "to invest money collected on behalf of the State until such time as the money is required to be submitted to the State". As the majority of the monies received are remitted to other taxing jurisdictions, the funds should remain segregated from the County's funds, for obvious reasons. This obligation is vested in the Clerk because under common law rule, the Clerk may be personally liable for the loss of public funds and should take all appropriate steps to protect his/her interests.^{11 12} The divestiture of this responsibility to another County agency is ill-advised.

¹⁰ The Manual establishes the importance of maintaining a system of fundamental controls. The Audit Recommendation that the Clerk's Office import bank statements would prevent detection of errors, and is inconsistent with the requirement of the Manual. The Manual states that running a book balance should be maintained for all court accounts and be reconciled monthly against the month-end balance appearing on the applicable bank statement.

¹¹ Accounting Procedures for County Clerks – Alan G. Hevesi - Office of the State Comptroller, p. 25

¹² County Law §403 requires the Clerk to file an official undertaking that states that: "The undertaking of the County Clerk shall name the county **and the people of the State of New York as obligees and shall include any liability with respect to mortgage tax**". (Emphasis added.)

The Clerk's Office maintains records of every investment and interest rates quoted for all Certificates of Deposit ("CDs") purchased that can be furnished upon request. Audit findings show that in December 2005, the Treasurer's Office was offered higher interest rates at North Fork Bank than the CDs the County Clerk's Office then purchased at State Bank. Due to the fact that interest rates are dictated by the size and length of the investment, as noted in the Audit findings, the Treasurer's Office had "larger sums on deposit" thereby assessing the rate of interest.

In compliance with GML § 11(5),¹³ the Nassau County Clerk's Office had a policy of investing funds in excess of a million dollars from the Clerk's office mortgage tax account in short term CDs ranging from 7 to 25 days. It should be noted that as of November 2006, the County Clerk's Office entered into an agreement with State Bank that permits the Mortgage Tax Account to earn interest daily at the current CD rate.

Mortgage taxes collected on behalf of New York State are transferred the following business day to the Mortgage Tax Account to begin earning the higher interest rate immediately. This agreement will produce more revenue as it is at a constant rate on the entire amount, not just the funds in excess of a million dollars. The Clerk's Office also negotiated with State Bank so that the office no longer incurs wire transfer fees, providing an additional savings to the taxpayers.

The auditors found "no evidence that the Clerk's Office requires or monitors proof of collateralization". A collateralization agreement is available,¹⁴ and can be furnished if requested. All Clerk's funds, whether bank account or CDs, are guaranteed by a collateralization agreement for 102 percent in compliance with all State and County requirements.

The segregation/delegation of duties was already addressed in Clerk's response to Audit Finding 1 and 6.

Audit Finding 4, "System & System Reporting"

Systems

With further regard to BROWNtech, the audit questions this vendor's financial stability as perceived by some of the audit staff. No source code escrow agreement is necessary because the Clerk's Office already has same in its possession. Although this entire line of commentary is outside the scope of the audit, be assured that the source code is as well protected as anything that resides on the County's server. Further, BROWNtech *does* provide system manuals (Audit Recommendation bullet point 1 and 3).

The audit states that there is a "lack of contingency arrangements should the company cease to exist or no longer support the product...". As is the case with many software vendors who have a scalable niche product, the program offers unique customization and is far preferable than an off-the-shelf product, which might not adequately meet the Clerk's Offices diverse needs.

¹³ General Municipal Law §11 (5) is supported in Accounting Procedures for County Clerks – Alan G. Hevesi - Office of the State Comptroller - pg 15

¹⁴ County Clerk's Office has a "Tri-Party Collateral Agreement" with the Bank of New York, Citibank and State Bank

BROWNtech boasts a high level municipal clientele from New England to Texas. Its small size has made for personalized attention by its founder and owner, who has been called upon on numerous occasions to troubleshoot for the County's own IT department.¹⁵

Assuming, *arguendo*, that the IT issues presented are within the scope of the audit, its recommendations do not take into account the data protection issues for which the Clerk's Office is responsible. A recommendation to merge the Clerk's database onto the County's platform could prove a disastrous breach of security should hackers get into the County's system again.¹⁶ Further, there is the serious concern with the amount of downtime the County's servers experience.^{17 18}

BROWNtech research demonstrates that the IBM AS400 server experiences an average outage of only 5.24 hours per year. This is as compared to 89.98 hours for Windows NT systems in the same study. Nassau County uses the Windows platform. As for security, IBM AS400 security is built to meet rigid Department of Defense standards (C-2).¹⁹ To entrust this data to the outsourced County IT Department is not in the best security and operational interests of the taxpayers.

While the Audit indicates the amount of funds expended by the Clerk's Office to this vendor for maintaining and enhancing its technology, it should be noted that this vendor has also been instrumental in the Clerk's Offices efforts to successfully eliminate the massive land records backlog. In addition, there are several innovative applications the Clerk's Office is poised to implement through BROWNtech, but due to delays by the Comptroller's Office, it has become difficult, if not impossible, to pay the outstanding invoices as the process for payment to this vendor in particular has become mired in Comptroller's Office bureaucracy.

As previously discussed:

- The BROWNtech system gives each staff member a unique ID and every transaction a control number.
- Each time a change is made to a record, it automatically is recorded by the system in a "Journal of Changes" report.
- An in-house mechanism exists for all supervisors to report and track these changes.
- All Clerk's Office deputies have system administrator privileges and are able to view these reports.

¹⁵ In 2004, the County's server, which contained imaged documents, crashed with no back up server available. The Clerk's office suffered more than 3-months of downtime during the height of the real estate bubble. BROWNtech created a scanning program that eliminated the need of that server so that the Clerk's Imaging Department could become functional again.

¹⁶ In 2003, the entire County network was paralyzed when hackers transmitted the Master Blaster virus variant, which took advantage of a flaw in Microsoft Corps.' flagship Windows software. This virus **did not** harm the IBM AS400

¹⁷ The County Clerk's office was migrated onto Nassau County's Microsoft XP platform in February 2006. However, due to County switch problems, the office suffered tremendous amounts of downtime from February until June of 2006, when the problem was remedied. Originally, the Nassau County I.T. Department laid the blame at the foot of the IBM AS400, which has since been disproved.

¹⁸ The Nassau County I.T. Department found that the inadequate HVAC system in the County Office building causes additional network downtime when temperatures in the closets housing the switches climb in excess of 100 degrees. This problem has not been corrected and will probably reoccur in the summer.

¹⁹ www.Browntech.com

- The Clerk’s Office continues to work with the vendor to add functionality to the system and secure the information and fees over which this office has a Constitutional mandate.
- As an additional layer of security, a new system enhancement requiring supervisory approval for exempt transactions will be implemented shortly (Audit Recommendation bullet point 2).
- As indicated in our response to this section, no source code escrow agreement is necessary because the Clerk’s Office already has the source code in its possession.

System Reports

Apportionment occurs when a piece of property resides in more than one taxing jurisdiction. Taxes for these properties must be assigned to the appropriate jurisdiction and are placed in a ‘Hold’ category until we receive a determination of payees from the New York State Department of Taxation and Finance. These ‘Hold’ mortgages are included in the monthly totals on revenue reports. They appear on the distribution report but are not calculated into the totals, so there is no double counting, as suggested in the Audit findings. When the data from the New York State Department of Taxation and Finance is received, the ‘Holds’ are then entered with a different document type so that the taxes are placed in the proper taxing jurisdiction. An offsetting entry is made in the ‘Miscellaneous Revenue’ and the Excel spreadsheet is adjusted.

The Clerk’s Office will evaluate opportunities to enact real time recording, while accounting for fees that are in a suspended state pending direction for remittance from New York State Department of Taxation and Finance (see Audit Recommendation bullet point 4).

Audit Finding 5, “Annual Report”

In compliance with County Law § 406, the Clerk files an Annual Report with the Nassau County Legislature on or before February 1st for the prior fiscal year. At year’s end, an Annual Report is submitted to the Legislature based on the most current information available at the time of submission. A temporary discrepancy may arise as a result of ‘Holds’, where the funds go into their own line, until the Clerk’s Office receives specific payee information and direction from New York State Department of Taxation and Finance as to the jurisdictions to which the funds must be remitted (see Clerk’s response to Audit Finding 4). The inquiry is generated by the Clerk’s Office in advance of the cutoff date for reporting, but the response from the State may not occur until after the Annual Report is filed. The Clerk’s statutory duties promulgated through New York State and the Unified Court System acknowledge the fact that these figures are not static, and require the Accounting office to make minor adjustments retroactively. It is not practical to continually re-issue the Annual Report, nor would it be in compliance with the law. These figures are available to the Nassau County Legislature at any time upon request.

Audit Recommendation bullet points 1 and 2 are complied with currently. The Clerk’s Office enters into NIFS the portion of the revenue collected that belongs to Nassau County on a monthly basis. This information provides the basis for financial reporting, along with data provided by the BROWNtech system.

Audit Finding 6, “Bank Accounts and Bank Reconciliations”

Bank Accounts

Many of the recommendations in this section have already been addressed. As discussed in Audit Finding 1, the concept of transferring the County Clerk’s bank accounts to the Treasurer’s Office is not appropriate. When a specific duty is imposed by statute, responsibility cannot be avoided by delegating performance. The Clerk’s Office has a non-delegable duty with regard to court fees and real property transfer taxes (see Clerk’s response to Audit Finding 2 & 3). This office has a collateralization agreement in place (see Clerk’s response to Audit Finding 3).

Audit staff did not request copies of confirmations of inter-bank and wire transfers, which can be furnished upon request.

Bank Reconciliation

The Clerk’s Office has a procedure to prepare, review, and sign the Bank Reconciliation Statements. This function is not solely handled by the Deputy Clerk. The Audit states that the auditors “were not permitted to examine the original check registers”. However, the auditors received copies of these items. In view of the fact that previously provided paperwork was lost by the audit staff (see Clerk’s response to ‘Scope Limitations’), and that standard accounting practice accepts the use of copies, the Clerk’s staff furnished what was compliant with the auditor’s request.

With respect to the Excel check registers:

- General Account - check number 1437 was voided and attached to the bank stub in the check register. It should have been in the December Excel register but was not. Check number 1438 appeared in February 2006 and was recorded at that time.
- Refund Account - check number 10790 was used to replace check 10704. Check 10791 was used to replace 10705. These checks should have been voided on the register and showed that replacement checks were issued. We have since modified our method of recording similar changes.

The purported errors can not be reconciled without further detail from the auditors. Specifically, details are needed on the check numbers that were input multiple times.

This office has been writing off checks at least once a year. With a very limited staff, it is difficult to perform this task more frequently. The checks are printed with “Void after 180 days” but many checks are still processed by the bank after that. The bank has informed the Clerk’s Office that a “Stop Payment” issued for any check is only valid for six months. Additionally, the bank has been contacted to investigate the possibilities of implementing a “Positive Pay” system, as per the audit recommendation. Notwithstanding, the Clerk’s Office does not have on file the auditor’s request for “Stop Payment” information.

The encoding errors the audit refers to were corrected by the Clerk’s Office in December 2006 (before the audit was received). The bank accounted for these errors.

In accord with the audit recommendation, the office uses the General Account, instead of the Refund Account when remitting the Real Estate Transfer Tax TP584 form to the State.

Prepaid account deposits and disbursements will not be “managed” by the Deputy Clerk. In furtherance of the Audit Recommendation that the office segregates its [accounting] duties, this account will be handled by other staff in the Accounting office whom the Deputy supervises.

Missing records

Be advised there were no missing records. The 144 transactions, which were recorded by the Deputy Clerk and included in the cashiering batches the auditors received with December 2005 batch work were an electronic notary file sent to the Clerk’s Office by the New York State Department of State and were documented.

With regard to Recommendation bullet point relating to segregation of duties, see also Clerk’s response to Audit Findings 1 and 3.

With regard to Recommendation bullet point relating to the “competitive procurement for banking services and ... collateralization requirements”, the Clerk’s Office completed a competitive procurement process in 2002 (see also Clerk’s response to Audit Finding 3).

The recommendation for an armored car service for bank deposits is an unwarranted use of taxpayer funds. State Bank is 100 feet from the Clerk’s Office. A police escort is provided daily for the deposits.

Audit Finding 7, “Bank Deposits and Deposit Corrections”

Daily Cash Deposits

Effective immediately, all petty cash checks will be cashed at the bank (see Clerk’s response to Audit Finding 11).

Deposit Corrections

Deposit Corrections are done on a separate deposit slip and are reconciled to all Clerk’s reports, as well as Clerk’s bank statements. The Clerk’s Office will review again “Control Directive 3: Cash Receipts” to see how existing policies and procedures can be improved.

Audit Recommendation 1 is responded to in Clerk’s comments to Audit Findings 1, 3 and 6. Audit Recommendation 2 is currently in place, although supervisors do not maintain a daily log of cash received because the system generates a statistical report that batches out at the end of the day. To comply with the recommendation (that supervisors also log cash received) would require additional staff.

Audit Finding 8, “Checks Returned with Insufficient Funds”

Upon verifying the returned check fee with the New York State Unified Court System the Clerk's Office has revised the returned check fee to \$20.00. The audit recommends that the office charge the insufficient funds fee the first time a check is returned. The Clerk's Office has adopted this policy of imposing a fee after the second deposit and will continue to do so.²⁰

The Clerk's Office agrees with the bullet point relative to NSF fees collected as revenue, and has implemented a procedure where these fees will be reported as revenue and paid to the County.

Audit Finding 9, "Processed Transactions without Correct Payment"

The Clerk's Office policy is to review all documents and money before entering them on public record. The Land Records and Court Receiving clerks undertake an extensive review to determine whether the document is in recordable form and that proper fees are being paid. Once recorded, New York State law prohibits the removal of recorded documents without a court order.

On average, the Clerk's Office processes thousands of transactions and receives more than 2,000 checks per day. Monies received are processed the next business day. Discrepancies are accounted for upon identification. All spreadsheets and reports are reconciled accordingly. The findings state: "one specific cashier maintains a manual listing of amounts owed". The Clerk's Office does not have any accounting records that are maintained manually.

The accounting staff maintains an outstanding receivables spreadsheet, which is updated regularly and linked to the other accounting spreadsheets. Contrary to the Audit Findings, when a customer returns to correct a discrepancy, the accounting staff updates the outstanding receivables spreadsheet, and prepares a separate deposit slip so that accounts reconcile.

With regard to recommendations, refer to Clerk's comments to Audit Finding 1.

Audit Finding 10, "Mail Processing"

With regard to Recommendation (c), the Clerk's Office has one dedicated FTE (and one backup employee) to process incoming mail on a daily basis. This employee is responsible for logging the number of pieces of incoming mail, irrespective of the number of documents for filing contained therein. The mail is bundled by date, and is recorded in the order in which it is received. The counting of the actual number of documents received for recording by the various departments is the responsibility of each supervisor. Many other Clerk's Offices throughout the State have the same procedure for incoming mail, for reasons listed below.

Recommendations (b) & (f) regarding scanning of mail and time stamping each piece of mail would require a very significant increase in resources, staff, equipment and space. This recommendation would treat incoming mail differently than over the counter filings. This also poses ramifications that would take Clerk's Office mail handling out of compliance with various

²⁰ The State of New York Unified Court System, Financial Planning and Control Manual states: "If a check or like instrument is not initially honored due to insufficient or uncollected funds, the court or agency should instruct the bank to deposit the check a second time".

laws. Certain pieces of mail are date stamped, while some mail cannot be date stamped, as it would be altering an original document, which is prohibited by law.

To task the mail clerk who is not qualified to determine in advance whether the document presented is in recordable form and qualifies for scanning would be an inefficient use of resources, which if incorrectly judged, may require a court order to correct *nunc pro tunc*. Also, most documents must be reviewed in their originally presented form. Court documents have a permanent retention and are only processed in hard copy, with no scanning occurring.

Electronic access is already implemented, where applicable, as in the case of Office of Court Administration e-filings and bulk filings of assessment review petitions, which are transmitted electronically (the Clerk's Office is nonetheless required to receive and maintain hard copies of these petitions).

Cashier productivity with regard to mail processing is tracked on an individual basis by running statistical reports utilizing the BROWNtech software. The report can be broken down hourly, daily, monthly or annually. The Clerk's Office already has a policy to secure (in locked cabinets) all unprocessed mail at the close of business each day. Each supervisor is responsible for collecting all unfinished work and securing it in designated locations within each department. Departmental keys are sent to accounting each night to be locked in the safe.

The Clerk's Office will implement recommendation (e) (*sic*) to restrictively endorse checks at the mail receipt stage.

The Clerk and supervisory staff meet frequently, and the Clerk is aware of mail dates currently being processed for all document types. The mail for the Accounting office is received in the Administration office and logged in the same fashion as all other mail. This mail is distributed to the appropriate staff member in that office.

Audit Finding 11, "Petty Cash"

The Clerk's Office acknowledges the procedures set forth in "Control Directive 1: Petty Cash Accounts". Effective immediately, the Clerk's Office will comply with said procedure and cash these reimbursement checks at the bank in accordance therewith. With respect to segregation of petty cash responsibilities, please refer back to Clerk's Office response to Audit Finding 1.

Further, the Clerk will designate an additional petty cash custodian to be named under separate cover.