

AUDITOR-CONTROLLER/ TREASURER/TAX COLLECTOR



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LARRY WALKER
Auditor-Controller/
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November 17, 2011

Colleen Krygier, Public Guardian-Conservator

Public Guardian-Conservator
222 West Brookside Avenue
Redlands, CA 92373-4606

SUBJECT: PUBLIC GUARDIAN-CONSERVATOR INTEREST INCOME AUDIT

Introductory Remarks

In compliance with Article V, Section 6, of the San Bernardino County Charter and the Board of Supervisor's Policy Statement on Internal Operational Auditing, we have completed an audit of the Public Guardian-Conservator (Public Guardian). The period covered by the audit was January 2009 through September 2010. Our audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing developed by the Institute of Internal Auditors.

Background

The Public Guardian is the conservator of individuals who are found to be gravely disabled or to lack the capacity to manage their finances and provide for their own care and where no other individual (relative, friend, or private conservator) is willing/able to fulfill this function, as determined by the court. The conservator is responsible for the conservatees' finances, medical care decisions, and placement.

Objectives, Scope and Methodology

Our overall objective was to determine if the Public Guardian is transferring the residual interest from money held in trust to the County General Fund.

We reviewed the interest transactions for the period of January 2009 through September 2010.

Conclusion

As a result of our analysis and tests performed, we concluded that the Public Guardian is not transferring the residual interest from money held in trust to the County General Fund.

We identified procedures and practices that could be improved. We have listed these areas and our recommendations for improvement in the Findings and Recommendations section of this report.

We sent a draft report to the department on September 27, 2011 and discussed our observations with management on October 24, 2011. Management's responses have not been altered in any way and are included below as they were provided to us.

Findings and Recommendations

Finding: Public Guardian is not transferring the residual interest from money held in trust to the County General Fund.

Per Probate Code 2940 and 7642, the Public Guardian shall credit each conservatorship with the highest rate of interest or dividend that the estate would have received if the funds available for deposit had been individually and separately deposited. Interest and dividends credited to the account of the Public Guardian in excess of that amount shall be deposited in the County General Fund. During testing, we found the department had been giving interest to the conservatorships based on the average market rate at local area banks instead of the highest rate of interest as required by Probate Code 7642 (a) from January 1, 2009 through December 31, 2009. Between January 1, 2010 and September 30, 2010 the department had been crediting the conservatorships' interest at the average rate of interest received from the County's treasury pool. The department also did not transfer the excess interest previously retained to the County General Fund; it has remained in the trust fund.

Management was unaware of the Probate Code that allows the transfer of interest to the County General Fund. Because management was unaware of the Probate Code that allows this transfer, the department has lost interest revenue of approximately \$3,000 for the quarter ending December 31, 2009 through the quarter ending September 2010. Further, the interest amount left in the trust fund unassigned to a conservatorship should have been transferred to the County General Fund and used for county operations.

Recommendation:

We recommend that management transfer the total amount of excess interest retained in the trust fund to the County General Fund. We also recommend that management use the highest rate of interest or dividend that the estate would have received if the funds available for deposit had been individually and separately deposited to calculate the interest to credit to the conservatorships and resume retaining the excess interest credited to the conservatorships from September 2010 forward. Finally, we recommend that the department make quarterly transfers of the excess interest revenue into the County General Fund.

Management's Response:

We have changed our procedures and taken action as follows:

1. Our procedures for this account have been changed to indicate that residual interest will be transferred to the County General Fund on a quarterly basis.
2. Per direction from your staff we have prepared a Treasurer Deposit Receipt and deposit check for 'AAA PGD PGD 9970 Other Revenue' in the amount of \$138,850.45. This is the amount of outstanding interest we have identified should be transferred to the County General Fund.

Auditor's Response:

The department's actions will correct the deficiencies noted in the finding.

Thank you very much for the cooperation extended by your staff during the course of this audit.

Respectfully submitted,

Larry Walker

Auditor-Controller/Treasurer/Tax Collector
San Bernardino County

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