

**ATTESTATION REPORT
OF
DOUGLAS COUNTY COURT**

JULY 1, 2008 THROUGH JUNE 30, 2009

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Issued on May 25, 2010

DOUGLAS COUNTY COURT

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DOUGLAS COUNTY COURT

SUMMARY OF COMMENTS

During our examination of Douglas County Court, we noted certain matters involving the internal control over financial reporting and other operational matters that are presented here. These comments and recommendations are intended to improve the internal control over financial reporting or result in operational efficiencies in the areas as follows:

1. ***Trust Balances:*** Deficiencies continue to be noted in the County Court's handling and/or resolution of trust balances held at fiscal year end.
2. ***Overdue Balances:*** Of the 30 overdue balances tested, 19 did not have subsequent action taken by the County Court to collect and/or otherwise resolve the amounts owed.

More detailed information on the above items is provided hereafter. It should be noted that this report is critical in nature as it contains only our comments and recommendations on the areas noted for improvement and does not include our observations on any accounting strengths of the County Court.

Draft copies of this report were furnished to the County Court to provide them an opportunity to review the report and to respond to the comments and recommendations included in this report. All formal responses received have been incorporated into this report. Responses have been objectively evaluated and recognized, as appropriate, in the report. Responses that indicate corrective action has been taken were not verified at this time, but will be verified in the next examination.

We appreciate the cooperation and courtesy extended to our auditors during the course of the examination.

DOUGLAS COUNTY COURT

COMMENTS AND RECOMMENDATIONS

1. Trust Balances

Neb. Rev. Stat. § 29-901 (Supp. 2009) regarding bail, requires statutory refund of bond deposits, less any applicable bond costs, to defendants upon performance of their appearance(s) and full compliance with bond conditions. Neb. Rev. Stat. § 25-2733 (Reissue 2008) regarding appeals was amended during the One Hundredth Legislative Second Session to make its appeal provisions applicable to Small Claims Court appeals, this amendment carried an operative date of January 1, 2009. As a result of this statutory change, the Bail/Bonds Administrative Procedures and Small Claims Procedures Manuals issued by the Office of the State Court Administrator, were reissued on December 31, 2008, to no longer require small claims appeal bonds be transmitted to the Clerk of the District Court and instead require such bonds remain in the County Court. During testing of the June 30, 2009, trust balances held by the County Court, the following was noted:

- 12 instances, totaling \$11,720, in which defendant bonds had not been paid out upon decline of prosecution and/or defendant's performance of all required appearances and/or obligations to the County Court. County Court personnel indicated responsibility for initiating return of bonds is largely left up to the individual defendants.
- 265 Small Claims case balances, totaling \$13,250, all of which consisted of \$50 appeal bonds from cases dating back to 1999 through 2008 which had not been remitted to the Clerk of the District Court at the time of appeal transmittal. In January 2010, 187 of these case balances, totaling \$9,350, were sent to the Nebraska State Treasurer as Unclaimed Property. Furthermore, the County Court was unaware of the January 1, 2009, operative change in handling of Small Claims Court appeals and, as such, has remitted all \$50 appeal bonds from 2009 forward, including currently, to the District Court.

Without adequate controls in place to ensure the complete, accurate, and timely resolution of trust balances, there is an increased risk of loss, theft, misuse, or improper payment of monies held by the County Court.

These issues were also previously reported in the prior exam.

We recommend the County Court implement procedures to ensure trust balances are timely reviewed for completeness, accuracy, and proper, timely disposition. Specifically regarding bail it appears to be well established, both in State Statute and case law both in Nebraska and in other jurisdictions that bail money must be returned to individuals and, as such, the sensible thing for the County Court would be to have procedures in place to automatically refund such bonds when appropriate.

DOUGLAS COUNTY COURT

COMMENTS AND RECOMMENDATIONS

(Continued)

1. **Trust Balances** (Concluded)

County Court's Response:

- *Management concurs that County Court personnel does not initiate the return of bonds to defendants. As suggested by the Auditors in the exit interview I have contacted the Supreme Court Fiscal Administrator and advised him that the auditing team suggested that the Administrative Office of the Court implement a policy whereas the courts are more proactive in returning the money after the defendant has met his/her obligation.*
- *Management has advised the Administrative Office of the Court that the auditing team requested a directive in writing for County Courts' in the interim time until the statute change is made this fall. We are also working with the Clerk of the Douglas County District Court to get us copies of dismissals in the interim as well.*

2. **Overdue Balances**

Good internal control and sound business practices require overdue balances of the County Court be reviewed on an ongoing, timely basis to determine what action should be taken to collect and/or otherwise resolve those balances.

Of the 30 overdue balances tested, 19, totaling \$4,671, did not have subsequent action taken by the County Court to ensure collection and/or resolution of the balances, such as the issuance of warrants, suspensions, orders to show cause, declarations of certain overdue balances as uncollectible, etc. As of December 6, 2008, overdue balances, excluding restitution, totaled \$3,354,171. As of April 17, 2010, overdue balances, excluding restitution, totaled \$3,284,629; a decrease of \$69,542. A decrease in the County Court's total overdue balances has also been noted in the prior two audits.

Without a regular, ongoing review of overdue case balances, there is an increased risk overdue balances may either not have proper follow up action taken or the balances may have been previously resolved and should no longer be reflected as being overdue.

This issue was also previously reported in the prior four audits and/or exams.

We recommend the County Court continue to work on collecting and/or otherwise resolving its overdue balances.

County Court's Response:

- *Management and staff will continue to work on the overdue case balances. Management is also pleased that the overdue balances decreased almost \$70,000 in the audit period and since November of 2006 have decreased \$615,000.*



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DOUGLAS COUNTY COURT

INDEPENDENT ACCOUNTANT'S REPORT

We have examined the accompanying Schedule of Changes in Assets and Liabilities Arising from Cash Transactions of Douglas County Court as of and for the fiscal year ended June 30, 2009. The County Court's management is responsible for the Schedule. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence supporting the amounts and disclosures in the Schedule and performing such other procedures as we considered necessary in the circumstances. We believe our examination provides a reasonable basis for our opinion.

In our opinion, the Schedule referred to above presents, in all material respects, the assets and liabilities arising from cash transactions of the Agency Funds of Douglas County Court as of June 30, 2009, and the related activity for the fiscal year then ended, based on the accounting system and procedures prescribed by the Nebraska Supreme Court as described in Note 1.

In accordance with *Government Auditing Standards*, we have also issued our report dated April 19, 2010, on our consideration of Douglas County Court's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an attestation engagement performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our examination.

This report is intended solely for the information and use of management, the Supreme Court, others within the County Court, and the appropriate Federal and regulatory agencies; however, this report is a matter of public record and its distribution is not limited.

Signed Original on File

April 19, 2010

Deann Haeffner, CPA
Assistant Deputy Auditor

DOUGLAS COUNTY COURT
OMAHA, NEBRASKA
SCHEDULE OF CHANGES IN ASSETS AND LIABILITIES
ARISING FROM CASH TRANSACTIONS
AGENCY FUNDS

For the Fiscal Year Ended June 30, 2009

	<u>Balance</u> <u>July 1, 2008</u>	<u>Additions</u>	<u>Deductions</u>	<u>Balance</u> <u>June 30, 2009</u>
ASSETS				
Cash and Deposits	\$ 2,937,007	\$ 22,229,662	\$ 20,321,234	\$ 4,845,435
LIABILITIES				
Due to State Treasurer:				
Regular Fees	\$ 90,884	\$ 2,505,860	\$ 2,490,823	\$ 105,921
Law Enforcement Fees	3,331	176,511	175,483	4,359
State Judges Retirement Fund	13,988	768,225	762,035	20,178
Court Administrative Fees	21,705	1,215,345	1,209,717	27,333
Legal Services Fees	17,624	864,365	857,177	24,812
Due to County Treasurer:				
Regular Fines	88,119	4,226,904	4,212,222	102,801
Overload Fines	175	114,159	113,734	600
Regular Fees	4,281	237,984	239,694	2,571
Due to Municipalities:				
Regular Fines	28,007	1,666,028	1,655,882	38,153
Regular Fees	10,178	138,201	135,538	12,841
Trust Fund Payable	<u>2,658,715</u>	<u>10,316,080</u>	<u>8,468,929</u>	<u>4,505,866</u>
Total Liabilities	<u>\$ 2,937,007</u>	<u>\$ 22,229,662</u>	<u>\$ 20,321,234</u>	<u>\$ 4,845,435</u>

The accompanying notes are an integral part of the schedule.

DOUGLAS COUNTY COURT
NOTES TO FINANCIAL SCHEDULE
For the Fiscal Year Ended June 30, 2009

1. Criteria

A. Reporting Entity

The Douglas County Court is established by State Statute and is administratively operated through the Court Administrator's Office of the Nebraska Supreme Court, which is part of the State of Nebraska reporting entity. The Schedule of Changes in Assets and Liabilities Arising from Cash Transactions of the County Court reflect only the Agency Funds activity of the County Court; the receipts, and their subsequent disbursement to the appropriate entities for which they were collected. The Schedule does not reflect the personal services expenses of the County Court, which are paid by the Nebraska Supreme Court, or the operating expenses, which are paid by Douglas County.

B. Basis of Accounting

The accounting records of the County Court Agency Funds are maintained, and the Schedule of Changes in Assets and Liabilities Arising from Cash Transactions have been prepared, based on the accounting system and procedures prescribed by the Nebraska Supreme Court. Under this system of accounting, fines, fees, and receipts relating to trust funds are shown as additions to assets and as an increase in the related liability when received. Likewise, disbursements are shown as deductions to assets and a decrease in the related liability when a check is written.

2. Deposits and Investments

Funds held by the County Court are deposited and invested in accordance with rules issued by the Supreme Court as directed by Neb. Rev. Stat. § 25-2713 (Reissue 2008). Funds are generally consolidated in an interest-bearing checking account; however, the County Court may order certain trust funds to be invested separately. Any deposits in excess of the amount insured by the Federal Deposit Insurance Corporation are required by Neb. Rev. Stat. § 77-2326.04 (Reissue 2009) to be secured either by a surety bond or as provided in the Public Funds Deposit Security Act.



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DOUGLAS COUNTY COURT REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN EXAMINATION OF THE FINANCIAL SCHEDULE PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

We have examined the accompanying Schedule of Douglas County Court as of and for the year ended June 30, 2009, and have issued our report thereon dated April 19, 2010. We conducted our examination in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our examination, we considered Douglas County Court's internal control over financial reporting as a basis for designing our procedures for the purpose of expressing our opinion on the Schedule, but not for the purpose of expressing an opinion on the effectiveness of the County Court's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the County Court's internal control over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with the accounting system and procedures prescribed by the Nebraska Supreme Court such that there is more than a remote likelihood that a misstatement of the entity's Schedule that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the Schedule will not be prevented or detected by the County Court's internal control.

Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether Douglas County Court's Schedule is free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of Schedule amounts; however, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We also noted certain additional matters that we reported to the management of Douglas County Court in the Comments Section of this report as Comment Number 1 (Trust Balances) and Comment Number 2 (Overdue Balances).

The County Court's written response to the findings identified in our examination are described in the Comments Section of the report. We did not examine the County Court's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of management, the Supreme Court, others within the County Court, and the appropriate Federal and regulatory agencies; however, this report is a matter of public record and its distribution is not limited.

Signed Original on File

April 19, 2010

Deann Haeffner, CPA
Assistant Deputy Auditor