



Follow-up Review of Audit of Tax Deed Sales Section

Office of the County Auditor

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Review Conducted by:

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Report No. 20-02

October 15, 2019



OFFICE OF THE COUNTY AUDITOR

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October 15, 2019

Honorable Mayor and Board of County Commissioners:

We have conducted a follow up review of our previous Audit of the Tax Deed Section of the Records, Taxes and Treasury Division. The objective of our review was to determine the implementation status of our previous recommendations.

We conclude that 23 previous recommendations were implemented, and two previous recommendation were partially implemented. **We commend** management on implementing our recommendations

We conducted this review in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our review objectives. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our review objectives.

We appreciate the cooperation and assistance provided by the Records, Taxes and Treasury Division throughout our audit process.

Respectfully submitted,

A handwritten signature in blue ink that reads "Bob Melton".

Bob Melton
County Auditor

cc: Bertha Henry, County Administrator
Andrew Meyers, County Attorney
Monica Cepero, Deputy County Administrator
George Tablack, Chief Financial Officer
Tom Kennedy, Director, Records Taxes and Treasury Division

Broward County Board of County Commissioners

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INTRODUCTION

Scope and Methodology

The County Auditor's Office conducts audits of Broward County's entities, programs, activities, and contractors to provide the Board of County Commissioners, Broward County's residents, County management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted a follow-up review of the Audit of Tax Deed Sales Section (Report No. 18-15). The purpose of this follow-up review is to determine the status of previous recommendations. The objectives of the original audit were:

1. To determine whether tax deed sale transactions are handled appropriately.
2. To determine whether the tax deed sale process complied with laws, rules, and regulations.
3. To determine whether there are any additional opportunities for improvement.

We conducted this review in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our review objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our review objectives.

Our follow-up review included such tests of records and other auditing procedures, as we considered necessary in the circumstances. The follow-up testing was performed for the period July 1, 2019 to September 30, 2019. However, transactions, processes, and situations reviewed were not limited by the review period.

Overall Conclusion

We conclude that 23 previous recommendations were implemented, and two previous recommendation were partially implemented. **We commend** management on implementing our recommendations

Background

The Tax Deed Sales Section is part of the Records, Taxes and Treasury Division (RTT). The section has six employees and one supervisor reporting to the RTT Operations Manager. The Tax Deed Sales Section accepts payments for delinquent taxes, handles the redemption of tax certificates, performs the pre-auction activities necessary to bring properties to auction, and processes payment of claims and other disbursements resulting from the sale of the properties.

Property owners are required to pay property taxes on an annual basis. If the owner does not pay the taxes by June of the following calendar year, a tax certificate is sold. Generally, if the tax certificate is not redeemed within two years, the certificate holder can apply to force a public auction of the property. This auction is referred to as a "Tax Deed Sale."

Approximately two months before a tax deed sale, the certificate holder must complete a tax deed application and pay additional funds for the cost of advertising, certified mailings, and sheriff services or postings. These fees are then added to the total amount due to redeem the certificate.

As part of the pre-auction process, the Tax Deed Sales Section obtains an Ownership and Encumbrance (O&E) report to identify lienholders or other parties with a financial interest in the property. Properties to be auctioned are advertised in the Daily Business Review for four weeks prior to the tax deed sale. Twenty days prior to the auction, the Tax Deed Sales Section sends notification of the pending auction by certified mail to the property owner, lien holders, and other parties appearing in the O&E report. Additionally, the Sheriff's office will serve or post a notice of sale on the property.

Prior to July 2016, monthly tax deed auctions were conducted "live." However, since July 2016, the monthly auctions are conducted online, and bids are transmitted and received electronically through the internet. Section 197.542 (4) (a) of Florida Statutes authorizes electronic tax deed sales. Each bidder pre-registers and pays a 5% deposit allowing them to enter bids for individual properties.

The opening bid is the amount of taxes included in the tax deed application plus interest and fees. If the property has a homestead exemption, the opening bid will also include one-half of the assessed value on the current tax roll.

The winning bidder must pay the remaining 95% of the purchase price to RTT no later than 11:00 a.m. the day following the auction. If the payment is not received within the specified time, Section 197.542(2) of Florida Statutes requires a bidder's deposit to be forfeited and a bidder's privilege to participate in future tax deed sales to be suspended for one-year. Funds

from the forfeited deposit shall be used to bring the property back to auction and lower the opening bid amount.

If the property is sold for the opening bid amount, the proceeds are used to pay the amount owed to the certificate holder and a tax deed is prepared to transfer title to the winning bidder.

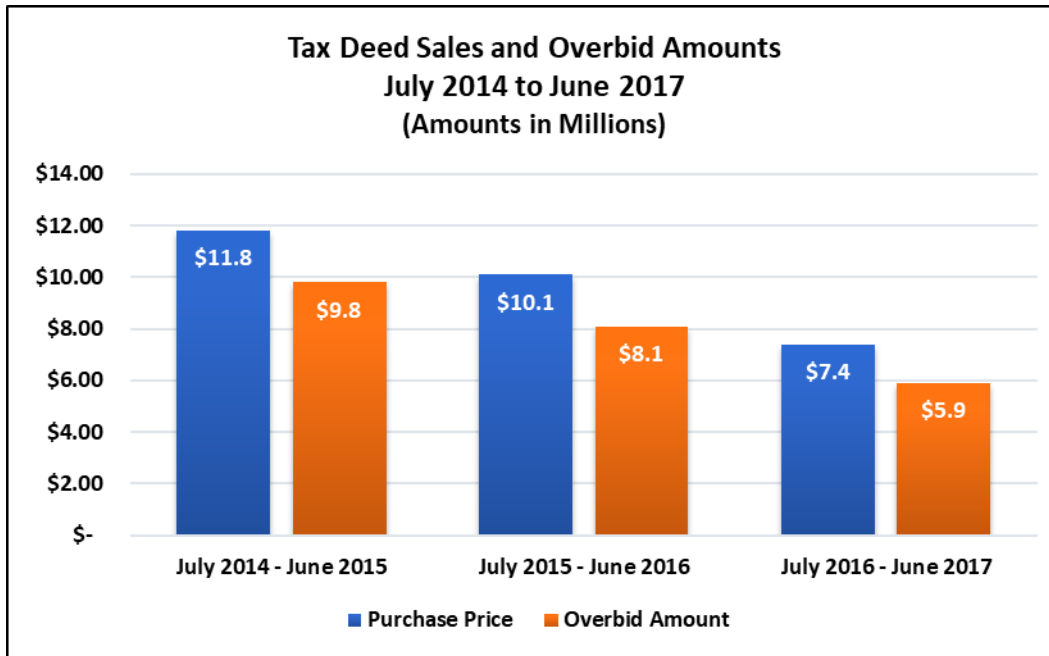
If the property is sold for more than the opening bid amount, the RTT Tax Deed Section;

- ❖ pays the certificate holder,
- ❖ prepares the tax deed to transfer title to the winning bidder,
- ❖ notifies the previous owners and lien holders of the surplus amount and provides claim forms by certified mail,
- ❖ receives and verifies claims for one-year after the date of the auction,
- ❖ arranges a meeting with the County Attorney's Office to determine the distribution of the excess proceeds to be paid one year following the date of auction, based on the following order of priority established by Florida Statutes;
 - Governmental agencies
 - Mortgages
 - Homeowner associations
 - Other lienholders
 - Former property owner(s), and
- ❖ prepares a disbursement memorandum to initiate payment of the claims based on the County Attorney's Office determination.

The disbursement memorandum is authorized for payment by the Tax Deed Supervisor and the County Attorney's Office prior to being forwarded to the Accounting Division for payment. Newly implemented procedures require an additional authorization by the Operations Manager before forwarding the disbursement memorandum to the Accounting Division. The disbursements are processed by the Accounting Division and checks are mailed to the claimants.

During the three-year period covered by the audit, July 1, 2014 to June 30, 2017, the Tax Deed Sales Section sold 606 properties totaling approximately \$29.2 million, with an estimated \$23.9 million in excess proceeds. Table 1 shows total tax deed sales and excess proceeds (overbid amounts) for the three-year period covered by our audit. Table 2 shows the total number of sales transactions for the three-year period covered by our audit.

Table 1
Tax Deed Sales and Overbid Amounts



Source: Analysis conducted by the Office of the County Auditor

Table 2
Total Number of Sales Transactions from July 2014 to June 2017

PERIOD	NUMBER OF SALES TRANSACTIONS
July 2014 - June 2015	223
July 2015 - June 2016	231
July 2016 - June 2017	152
TOTAL	606

Source: Analysis conducted by the Office of the County Auditor

Section 197.582 (3) of Florida Statutes requires an interpleader action to be filed with the Clerk of Courts in instances when claims are not submitted in the order of priority or when conflicting claims are received. This process is handled by the County Attorney’s Office, and once completed, unpaid balances of the Tax Deed sale proceeds are transferred to the Clerk of Courts for further processing.

OPPORTUNITIES FOR IMPROVEMENT

This section reports actions taken by management on the findings in our previous review. The issues and recommendations herein are those of the original review, followed by the current status of recommendations.

1. Lack of Management Controls Allowed Apparent Fraudulent Disbursements of Surplus Funds to Occur.

We found a lack of management controls that allowed payment of potentially fraudulent claims to occur. These potentially fraudulent claims were paid as a result of grossly inadequate supervision, poor segregation of duties, and the lack of an adequate and timely review of claims by the County Attorney's Office.

Two of the potentially fraudulent payments totaling \$100,689 were processed for payment within two months of the former RTT Specialist's promotion to that position. In both instances the claims were received on the same day the payments were initiated. While the review and authorization of disbursement documents by the County Attorney's Office and former Supervisor would ordinarily provide some assurance that transactions were independently reviewed, these reviews were inadequate and created an environment where the former RTT Specialist could perpetrate the potential fraudulent actions without detection. The former Supervisor admitted during our interview that she did not compare the information on the disbursement document to the claim information or the Tax and License Collection and Distribution System (TaxSys) and did not confirm the Assistant County Attorney's payment recommendations prior to authorizing payment of claims. See Opportunity for Improvement Nos. 2 and 6 for specific discussion of these issues.

The duties performed by the former RTT Specialist lacked proper segregation. The former employee handled the post auction process from beginning to end, including receipt and processing of claims, initiating payment of claims, handling complaints, responding to inquiries, and processing public records requests. These duties, when combined with other internal control weaknesses cited throughout this report, increased the risk of undetected errors and irregularities. Segregation of duties is an essential preventative control to reduce errors or irregularities. See Opportunity for Improvement Nos. 3 and 6 for specific discussion relating to these issues.

The former Supervisor of the Tax Deed Sales Section provided grossly inadequate supervision of the former RTT Specialist. The former Supervisor inappropriately accepted a \$5,000 cash loan from the former RTT Specialist. In addition, the Supervisor took no action to perform follow-up and to notify Division Management and the County Attorney when two companies contacted her and raised concerns of possible fraud, as early as July 2015. Her failure to notify management resulted in subsequent payments of an additional 23 potentially fraudulent claims, totaling approximately \$1.2 million.

The County Attorney's Office provided grossly inadequate services to the Tax Deed Sales Section. Specifically, the County Attorney did not perform a timely review of claims, document payment recommendations, and review documents prior to authorizing the payment of claims. The lack of timely review of claims resulted in significant backlogs in processing claims and filing Interpleader complaints. As of June 2017, there were approximately \$10.1 million in tax deed proceeds that remained unpaid for one to seven years after the auction date. Included in this amount, was approximately \$6.8 million in claims that were recommended for interpleader action and in various stages of the process to transfer funds to the Clerk of Courts. Section 197.582 (3) of Florida Statutes requires an interpleader action to be filed with the Clerk of Courts in instances when claims are not submitted in the order of priority or when conflicting claims are received. See Opportunities for Improvement Nos. 4 and 5 for specific issues relating to inadequate County Attorney services.

The lack of proper review of payment documents by the former Supervisor and the County Attorney's Office, contributed to the payment of approximately \$2.4 million in potentially fraudulent claims that might otherwise have been prevented or detected timely.

The County acts in a fiduciary capacity as custodian of the excess proceeds from tax deed sales and, therefore, has an obligation to establish adequate and effective management controls to safeguard these funds. In this role, the County must implement strong and effective management controls to include:

- Adequate supervisory controls.
- Adequate segregation of duties for positions involved in the Tax Deed sale process.
- Timely payment of claims or timely completion of interpleader actions with the Clerk of Courts.

We recommended management immediately review the adequacy of management controls to prevent fraudulent disbursements of funds. Such controls should adequately address management supervision, segregation of duties, and the timely review of claims by the County Attorney's Office.

Management’s Response: See Appendix A for County Administration’s Response.

Status: Implemented.

2. Approximately \$2.4 Million in Potentially Fraudulent Claims Were Paid

During our review, we noted a total of 51 potentially fraudulent claims totaling approximately \$2.4 million were paid by the Tax Deed Sales Section. Of this amount, approximately \$1.6 million had been previously identified by law enforcement and County management. Our office immediately confirmed the 28 potentially fraudulent Tax Deed payments included in the arrest warrant, totaling approximately \$1.6 million. We reviewed 98 claims paid during the period from June 2014 to June 2016 to companies representing claimants as Power of Attorney (POA). We found six potentially fraudulent payments, totaling \$279,168, to POAs associated with the individuals named in the arrest warrant and 17 other payments, totaling \$536,667, to POAs with family ties to the former RTT Specialist named in the arrest warrant.

The former RTT Specialist used his unique position to accept potentially fraudulent claims from POAs claiming to represent former property owners. The former RTT Specialist processed these claims for payment by initiating disbursement documents that were later authorized by the former Supervisor and the County Attorney. After securing authorization, the disbursement documents were processed by the Accounting Division and the checks mailed to the POAs.

Between June 2014 and June 2016, 51 potentially fraudulent claims totaling approximately \$2.4 million were paid to 15 POAs. Table 3 shows potentially fraudulent payments made to the 15 POA’s.

**Table 3
Potentially Fraudulent Amounts paid to POA’s**

Power of Attorney	Payments Found
POA 1	\$278,548
POA 2	\$179,472
POA 3	\$217,345
POA 4	\$355,961
POA 5	\$36,687
POA 6	\$73,876
POA 7	\$54,661
POA 8	\$378,435
POA 9	\$32,423
POA 10	\$43,219
POA 11	\$154,413
POA 12	\$58,847

Power of Attorney	Payments Found
POA 13	\$370,943
POA 14	\$22,689
POA 15	\$165,724
Total	\$2,423,248

Source: Analysis conducted by the Office of the County Auditor

Further review of the potentially fraudulent claims revealed three were paid out of the order of priority established by Florida Statutes. We reviewed electronic records in TaxSys and found three instances when claims of lesser priority were paid to the POAs instead of higher priority claims from a municipality, mortgagee, court order and condominium association. Section 197.582 (3) of Florida Statutes requires claims to be paid according to the priorities of the claims. Table 4 shows the potentially fraudulent claims paid to POAs while claims with higher priority were unpaid.

Table 4
Amounts paid to POA's while Claims with Higher Priority were not Paid

Auction Date	Payment made to POA	Payment Date	Higher Priority Unpaid Claims on File
5/14/2014	\$90,432	11/3/2015	\$49,913 claim received 5/27/2015 on file from the mortgage company.
1/18/2012	\$64,002	6/4/2014	\$31,600 claim dated 9/25/2012 on file from a local municipality.
6/13/2012	\$27,085	8/12/2015	\$27,085 claim received 9/19/2012 Court Order- final judgement after default on Bank's Business Credit line. \$12,214 claim received on 7/6/2012 from a Condominium Association.

Source: Analysis conducted by the Office of the County Auditor

Adequate review of the disbursement documents by the Supervisor and Assistant County Attorney, including review of TaxSys, could have prevented these inappropriate and potentially fraudulent payments (see Opportunites for Improvement Nos. 4, 5, and 6).

On July 17, 2017, an arrest warrant was issued by the 17th Judicial Circuit Court for the arrest of a Broward County Records, Taxes, and Treasury employee (former RTT Specialist) who allegedly defrauded property owners of Tax Deed surplus funds. County management has notified the County's bonding company to file claims to recover the funds improperly disbursed.

We recommended management:

- A. Continue to pursue recovery of losses from the County's bonding company and distribute amounts to the proper claimants as applicable.
- B. Ensure claims are paid in the order of priority established by Florida Statutes.

Management's Response: See Appendix A for County Administration's Response.

Status:

- A. **Implemented.** The County recovered approximately \$2.4 million from the bonding company.
- B. **Implemented.**

3. Segregation of Duties Over Tax Deed Sales were Grossly Inadequate.

Duties performed by the former RTT Specialist lacked proper segregation. The former employee handled claims from beginning to end, including receipt and processing of claims, initiating of claim payments, handling customer complaints, responding to inquiries, and processing public records requests. The former RTT Specialist:

- Notified potential claimants of excess funds and provided claim forms,
- Received and evaluated submitted claim documents for completeness,
- Coordinated with the County Attorney's Office to obtain recommendation for payment,
- Initiated disbursement document to pay claims,
- Obtained County Attorney and Supervisory approval of disbursement documents and delivered approved documents to RTT Accounting for further processing,
- Received and responded to complaints, inquiries, and public records requests regarding surplus funds,
- Initiated actions to send undistributed funds to the State, and
- Closed tax deed files and initiated action to archive closed files.

These duties, when combined with other internal control weaknesses cited throughout this report, allowed potentially fraudulent disbursements to occur without timely detection. Segregation of duties is a preventive and detective control designed to preclude improper activity and is essential to ensure that errors or irregularities are detected timely during the

normal course of business. Proper internal controls require segregation of conflicting duties which would allow an employee to make and conceal transactions.

At the time of our audit fieldwork, the current RTT Specialist continued to perform virtually all aspects of these transactions.

We recommended management review all job duties to ensure that incompatible duties are appropriately segregated.

Management's Response: See Appendix A for County Administration's Response.

Status: Implemented. Management has updated procedures to define the following roles and responsibilities:

- ❖ **RTT Tax Deed Section:** Responsible for paying outstanding County's taxes (R.E., TPP, Homestead Liens), and the certified mailing notices of surplus.
- ❖ **RTT Administration:** Responsible for the supervision of a RTT Specialist, Senior. The RTT Specialist, Senior, prepares tax deed surplus files and surplus funds distribution memoranda.

RTT Senior Management is also responsible for reviewing completeness of claims submitted with a Power of Attorney (POA), scheduling distribution meetings with the designated Deputy County Attorney, ratifying surplus distributions, and answering public record requests.

- ❖ **County Attorney's Office:** The designated Deputy County Attorney is responsible for reviewing the validity and completeness of submitted claims, providing legal advice/support, reviewing legal validity of the auction process and determining the proper distribution of tax deed surplus funds, pursuant to applicable Florida Statutes.
- ❖ **RTT Business Operations:** Responsible for processing tax deed surplus funds (issuing checks) and maintaining surplus balance reports. Surplus fund distributions are processed upon validation of all signatures (RTT Specialist, Senior, RTT Senior Manager, and County Attorney) and attachments on the distribution memoranda.

4. Legal Reviews and Payment Recommendations Made by the County Attorney's Office Were Inadequate and Undocumented.

During our review of 385 claims paid, we found 42% had no written payment recommendation from the County Attorney's Office. Specifically, we noted the following:

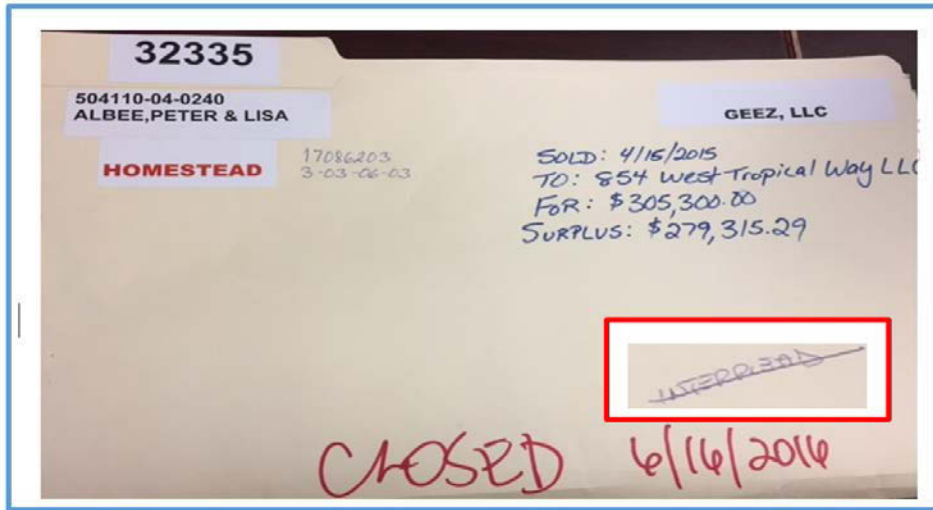
- A. Written payment recommendations were not included in the file for 160 (42%) of paid claims. Forty-one of the 160 (26%) claims, totaling approximately \$1.8 million, are potentially fraudulent.
- B. Written payment recommendations were on file for 225 (58%) of paid claims. However, the Division's procedures did not require RTT staff to attach the County Attorney's written payment recommendations to the disbursement document used to authorize payment of claims to facilitate the authorization process. Despite the County Attorney's written payment recommendations to pay other claimants, the Supervisor and County Attorney approved payment of **nine** potentially fraudulent claims to POAs totaling approximately \$579,000.

We reviewed the County Attorney's written payment recommendations and noted the following weaknesses:

- i. **Eighty-six** of 225 (38%) payment recommendations were inadequately documented and lacked key identifying information. The payment recommendations did not indicate the date the claims were reviewed by the County Attorney's Office and the name or signature of the employee who wrote the payment recommendation (see examples in Exhibits 1 and 2).
- ii. **Ten** of 225 (4%) payment recommendations were apparently modified by Tax Deeds staff, and amounts totaling \$1.5 million were paid to recipients that were not included in the Attorney's recommendations. This included payment of **three** potentially fraudulent claims to POAs totaling \$324,000. Exhibit 1 illustrates an example of an "INTERPLEAD" payment recommendation that was crossed out and a potentially fraudulent claim for \$274,068 was subsequently paid.

Exhibit 1

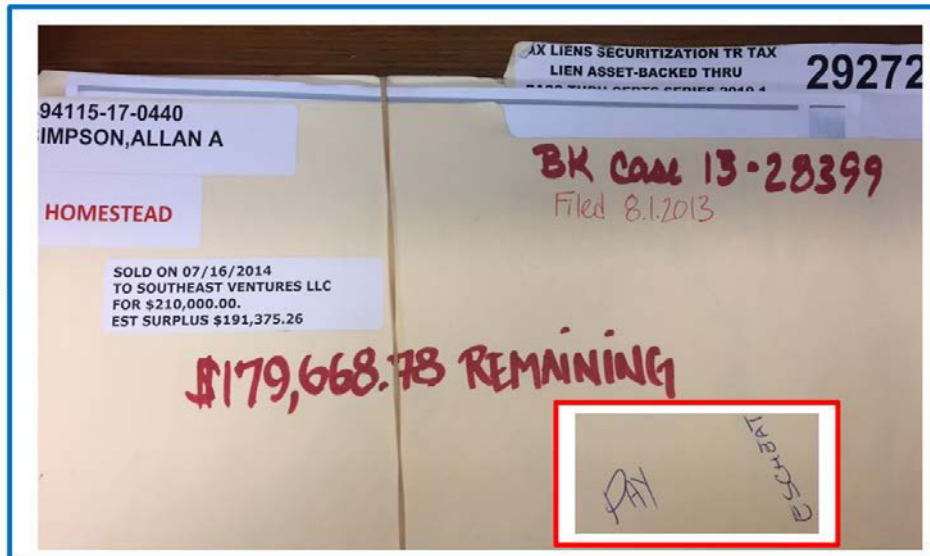
Disbursement Note Crossed out and Potentially Fraudulent Claim Paid for \$274,068



- iii. **Six** of 225 (3%) potentially fraudulent claims totaling \$255,000 were paid to POAs, contrary to the payment recommendations on file. Exhibit 2 below illustrates an example of an “ESCHEAT” payment recommendation that was ignored, and a potentially fraudulent claim was subsequently paid to one of the POAs for \$179,472.

Exhibit 2

Disbursement Note Ignored and Potentially Fraudulent Claim Paid for \$179,472



County procedures require the County Attorney’s Office to review claims and make determinations for payment. Sound business practices require that payment recommendations

are written, dated, and signed by the County Attorney. The written payment recommendation should accompany the disbursement document used to initiate payment of claims.

Failure to require written evidence of the County Attorney's payment recommendations to support disbursement documents contributed to inappropriate payments, and violation of Florida Statutes.

After the incidents were discovered, RTT management implemented procedures requiring written payment recommendations to be signed and dated by the Assistant County Attorney and witnessed by the RTT Specialist and Supervisor. The current procedure also requires the signed payment recommendation to be attached to the disbursement document used to initiate payment of the claim.

We recommended the Office of the County Attorney:

- A. Comply with the newly implemented procedures that require the County Attorney to document, date, and sign the payment recommendation.
- B. Ensure the written payment recommendation supports the disbursement document, prior to approving payment.

Management's Response: See Appendix B for County Attorney's Response.

Status:

- A. Implemented.**
- B. Implemented.**

5. File Reviews Performed by the County Attorney's Office Were Not Timely.

Significant backlogs in reviewing and processing claims for payment and extensive delays in processing interpleader actions to transfer funds to the Clerk of Courts have occurred. We noted the following concerns:

- A. As of June 2017, a backlog of over \$10 million existed, with over \$4 million of that amount being unprocessed for over three years. This significant backlog results in unacceptable lengths of time in distribution of funds that are owed to various entities or individuals.

To determine the extent of the backlogs, we reviewed Tax Deed balances for one month in 2014, 2016 and 2017 respectively. We aged Tax Deed balances for each month

selected to determine whether claims were processed timely and found processing backlog of up to seven years from the auction dates. Table 5 below shows the processing backlogs for the three months reviewed.

**Table 5
Backlog of Unprocessed Tax Deed Claims
June 2017, September 2016, and April 2014**

YEARS SINCE AUCTION DATE (amounts in millions)					
Month	Total Backlog Cases	Total Backlog Amount	Backlog Amount 1 to 3 Years	Backlog Amount 3 to 5 Years	Backlog Amount Over 5 Years
June 2017	479	\$10.1	\$5.6	\$4.2	\$0.3
September 2016	339	\$8.7	\$6.6	\$1.9	\$0.2
April 2014	542	\$5.6	\$5.4	\$0.2	

Source: Analysis conducted by the Office of the County Auditor

Failure to pay claims timely results in extended wait times for claimants to receive amounts owed and delays transfer of unclaimed funds to the State of Florida.

County policy requires that claims for excess proceeds are submitted within one year of the auction date, reviewed by the Office of the County Attorney, and distributed to claimants in the order of priority established by Florida Statutes, or interpleaded, as necessary. These include surplus funds that are due to the previous homeowner whose property was sold for property taxes that were unpaid. Section 197.473 of Florida Statutes requires unclaimed Tax Deed Proceeds to be remitted to the State of Florida after one year.

- B. Interpleader actions were not filed timely to transfer funds to the Clerk of Courts. As of August 10, 2017, there was a backlog of 260 tax deed files totaling approximately \$6.8 million that were recommended for interpleader action by the County Attorney’s Office. The time-lag for these cases ranged from one to seven years after the auction date. Of the 260 tax deed files;
 - i. Interpleader actions were initiated, within a few weeks of our review, for 228 cases totaling approximately \$6 million. The majority of the interpleader complaints were drafted by the Tax Deed Sales Section and awaiting review and further processing by the County Attorney’s Office before filing with the Clerk of Courts. The time lag for the cases ranged from one year to seven years after the auction date.

- ii. Interpleader complaints were not initiated for 32 cases totaling approximately \$800,000. The time lag for the cases ranged from over one year and up to five years after the auction dates.

Delays in completing interpleader actions and transferring funds to the Clerk of Courts further delays payments to claimants or transfer of unclaimed funds to the State of Florida.

Interpleader actions should be filed timely to transfer funds to the Clerk of Courts. Section 197.582 (3) of Florida Statutes states, "If a lien appears to be entitled to priority and the lienholder has not made a claim against the excess funds, payment may not be made on any lien that is junior in priority. If potentially conflicting claims to the funds exist, the clerk may initiate an interpleader action against the lienholders involved, and the Court shall determine the proper distribution of the interpleaded funds..." The interpleader process begins with the filing of an interpleader complaint by the County Attorney's Office and concludes with the transfer of undistributed tax deed proceeds to the Clerk of Courts.

We recommended management coordinate with the Office of the County Attorney to:

- A. Process claims for payment of tax deed surplus funds timely.
- B. Process claims requiring interpleader action to transfer surplus funds to the Clerk of Courts timely.
- C. Transfer unclaimed funds to the State of Florida to eliminate the backlog timely.
- D. Review and document payment recommendations for tax deed surplus claims timely.

Management's Response: See Appendix B for County Attorney's Response.

Status:

- A. **Implemented.**
- B. **Implemented.**
- C. **Implemented.**
- D. **Implemented.**

6. Supervision of the Former RTT Specialist was Grossly Inadequate and Contributed to the Non-Detection of Inappropriately Disbursed Funds.

The former RTT Specialist was inadequately supervised which contributed to the potentially fraudulent payment of claims without detection. We noted the following specific concerns:

- A. The former Tax Deed Supervisor authorized tax deed payments without performing an adequate review of disbursement documents. Disbursement documents were initiated by the former RTT Specialist and authorized by the former Supervisor and the Assistant County Attorney prior to payment by the Accounting Division. In our interview with the former Tax Deed Supervisor, she stated, "I checked the parcel identification number, amount and that the name in the memo agrees with the Payee." This review was grossly inadequate because it did not include reviewing claim information in TaxSys against the disbursement document and underlying support such as the claim and written attorney disbursement recommendation.

Failure to perform adequate review of disbursement documents resulted in the payment of approximately \$2.4 million in potentially fraudulent claims.

- B. The former Supervisor inappropriately accepted a \$5,000 cash loan from the former RTT Specialist, who was under her supervision. We requested a copy of the receipt evidencing repayment of the loan and she stated, *"I can't prove I paid him back. He gave me cash and I paid him back with cash."* Accepting a loan from a subordinate could compromise supervisory objectivity. The County does not have a policy addressing the acceptance of loans from subordinates.
- C. Inappropriate emails were exchanged between the former RTT Specialist and the Supervisor. In addition, instances were noted when the Supervisor ignored customer complaints, inquiries, and public records requests alleging potentially fraudulent activities. Our review noted:
 - i. One email dated November 10, 2015, involving one of the potentially fraudulent claims for \$152,758 was unanswered by the former RTT Specialist. The email questioned the payment, stating that the company that received payment was not the mortgage holder or lienholder and that the former property owner signed a contingency agreement with his company to recover the monies. On November 12, 2015, the RTT Specialist forwarded the email to the former Supervisor stating, "??????".

On November 17, 2015, a follow-up email request was sent to the former RTT Specialist. Within minutes of receipt, the former RTT Specialist forwarded the email to the former Supervisor stating, "PLEASE HELPPPPPPP.....". Within an hour of receipt, the former Supervisor responded to the inquiry stating the name of the company that received the payment (one of the POA's associated with potentially fraudulent claims).

On December 10, 2015, an email was sent to the former Supervisor from the same inquirer stating that he requested a copy of the claim on November 14, and has not received it, his email also stated, "I fear this claim was a fraud." Within an hour and a half of receipt of the email, the former supervisor responded to the company and sent a copy of the claim.

- ii. In another instance, a company representing a claimant requested, received, and reviewed a copy of one of the potentially fraudulent claims for \$161,686. The company notified the former Supervisor on July 29, 2015 via email stating, "*the former property owner stated that his signature and the notary's signatures were forged.*" In response to the email, the former Tax Deed Supervisor stated, "*I have forwarded the information to our attorney.*" We were unable to find evidence of her notifying the Attorney.

In a follow-up email on July 30, 2015, the company requested copies of the front and back of the check. On August 24, 2015, the company requested copies of all claims and checks paid to the recipient of the \$161,686. At that time, an additional claim for \$35,435, was paid to the same recipient and the Supervisor sent the requested information.

On August 27, 2015 the company sent an email to the former Supervisor stating, "Please be advised this claim is also fraudulent. The notary expired in 2011 and was not licensed when the power of attorney was signed.". We were unable to find a response from the former Supervisor to the company in the County's record.

Despite these allegations of fraud, we were unable to find evidence that the former Supervisor took action to follow-up by notifying the County Attorney's Office or RTT Division Management. In all instances the red-flags were ignored by the former Supervisor and the inappropriate and potentially fraudulent activities were allowed to continue for an additional 12 months. During this 12-month period, 23 of the potentially fraudulent payments were made, totaling approximately \$1.2 million.

- D. Our review of the personnel file for the RTT Specialist showed no adverse action concerning the complaints. The Supervisor evaluated him an overall four out of five on his annual evaluation for the period March 17, 2015 to March 17, 2016, and commented, "Roberto continues to perform duties pertaining to processing sold files for surplus claims with very little assistance or supervision. This past year he has exceeded my expectations of processing 2011, 2012 & 2013 sale files for the County Attorney's review, a total of over 786 files."

These emails combined with the Supervisor's failure to report these incidents to management demonstrate a serious lack of supervision and judgment on the part of the former supervisor.

- E. The former Supervisor was reassigned by RTT Management to another supervisory position in the Records Section and supervised eight employees that have cash handling responsibilities until she terminated employment on or about February 13, 2018. Because of the serious inadequacies in supervision, we question the appropriateness of reassigning the former supervisor to another similar position, without reasonable action, including disciplinary action and/or supervisory training.

We recommended management:

- A. C. & D. Enhance supervisory controls to prevent and detect the improper disbursement of funds; including the implementation of Supervisory training on:
- i. Proper review of disbursement documents prior to authorization for payment.
 - ii. Maintaining appropriate employee relationships and supervisory independence.
 - iii. Proper preparation of performance evaluations.
 - iv. The protocol for the reporting and investigating customer complaints, disbursement inquiries, and public records requests that raise red flags.
- B. Implement written policy to preclude supervisory or managerial employees from accepting loans from subordinate employees and maintaining appropriate employee relationships and supervisory independence.
- E. Evaluate the current duties performed by the former Supervisor to determine whether she can effectively supervise a function that includes cash handling responsibilities.

Management's Response: See Appendix A for County Administration's Response.

Status:

- A. C. & D. Implemented.**
- B. Implemented.**
- E. Implemented.**

7. Potentially Fraudulent Claims Were Paid Six Times Faster Than Legitimate Claims Without Detection of Potential Improprieties.

We reviewed the time lag for 418 paid claims, from the date the claims were received to the date the claims were processed for payment and found an average time lag of 58 days for 50 of the potentially fraudulent claims compared to 369 days for all other claims. Table 6 shows the time lags for processing the claims:

**Table 6
Time Lag for Processing Paid Claims**

Claim Receipt Date vs Disbursement Voucher Date (Days)	Potentially Fraudulent Claims [Note 1]	Other Claims
Less than 20	32	14
20 to 50	6	19
51 to 100	3	33
101 to 200	3	55
201 to 400	6	121
401 to 600	None	53
801 to 1,000	None	20
1,001 to 1,658	None	11
Total Cases	50	368
Average	58 Days	369 Days

Source: Analysis conducted by the Office of the County Auditor

Note 1: Excludes one payment made in August 2017 that was returned by the post office.

The disbursement documents for 14 of the potentially fraudulent claims were prepared within one day of receipt. This includes one disbursement document that was dated a day prior the the date the claim was stamped received. Proper review of the disbursement documents by the County Attorney’s Office and RTT Supervisor, including review of TaxSys information, could have detected the expedited and improper payments.

We recommended management work with staff and the County Attorney's Office to ensure appropriate procedures exist to recognize potential irregularities as they occur.

Management's Response: See Appendix A for County Administration's Response.

Status: Implemented

8. Conversion of Files to Electronic Format Eliminated Paper Trail.

The former Tax Deed Supervisor converted paper files to electronic files and eliminated the paper trail during the period from November 2015 to December 2016 without proper authorization. After the conversion, claims and other documents received in the Tax Deed Sales Section were scanned, imported into TaxSys, and later destroyed. The RTT Senior Manager stated in his interview, "One day I needed a file and was told that for several months they were not keeping paper files anymore. I immediately recommended that they stop the practice and reconstruct the files." He also stated that the former Supervisor had no written authority to destroyed hard copy records.

The decision to change from a paper system to an electronic system is a serious decision that can have significant ramifications. This would normally involve consideration by the stakeholders, reviews of applicable laws, considerations of necessary internal controls, testing of the system prior to live implementation, and formal management approval. These normal considerations were circumvented by the former Supervisor's actions. As a result, necessary information and documentation could have been omitted from the electronic records that may have been included in the paper file system.

We recommended management prohibit conversions of systems without adequate consideration by stakeholders, reviews of applicable laws, considerations of necessary internal controls, testing of the system prior to live implementation, and formal management approval.

Management's Response: See Appendix A for County Administration's Response.

Status: Implemented.

9. The Accounting Records were not Periodically Reconciled to TaxSys.

We reviewed 60 Tax Deeds accounts in the accounting records and found the balances for 57 (95 %) did not agree to amounts in TaxSys. Specifically, we noted:

- A. Two disbursement checks totaling \$28,081 were returned to the County and appropriately entered in the accounting records; however, TaxSys showed both

accounts closed with zero balances. Failure to record returned checks in TaxSys delays payment of claims or escheatment of unclaimed funds to the State of Florida and increases the possibility of misappropriation of funds.

- B. Postage and other fees for 55 (92%) of the Tax Deeds were deducted from the accounts in TaxSys but were not entered in the accounting records. Division procedures require that postage and other fees that are paid by the Division be deducted from each tax deed via a journal entry in the accounting records. Failure to process the accounting entry resulted in the County paying the expenses of postage and other fees associated with administering the Tax Deed program. Section 197.582 of Florida Statutes states, "Any service charges, at the rate prescribed in s. 28.24(10), and cost of mailing notices shall be paid out of the excess balance."

Failure to periodically reconcile account balances in the Accounting records to TaxSys resulted in undetected errors.

The Accounting Division periodically reconciled the accounting records for Tax Deed sales to the account details maintained by the RTT Accounting section; however, there are no procedures requiring RTT to periodically reconcile balances in TaxSys to the accounting records.

We recommended management periodically reconcile balances in TaxSys to the accounting records and adequately resolve any discrepancies. In addition, management should ensure:

- A. Returned checks are appropriately accounted for in TaxSys. Returned checks should be immediately processed for distribution to claimants or escheated to the State of Florida.
- B. Postage and filing fees are appropriately accounted for in the accounting records.

Management's Response: See Appendix A for County Administration's Response.

Status:

A. Implemented.

B. Implemented.

10. Potential Claimants Were Not Notified Prior to Escheatment of Funds to the State.

We noted that no claims were received for proceeds from five tax deed sales totaling \$121,708. As a result, the unclaimed proceeds were recommended to be escheated to the State of Florida and will be remitted in April 2018. County procedures require notification of potential

claimants immediately after the auction; however, there is no policy to notify potential claimants of unclaimed funds, prior to escheatment.

According to Section 197.473, of Florida Statutes, “Money paid to the tax collector for the redemption of a tax certificate or a tax deed application that is payable to the holder of a redeemed tax certificate but for which no claim has been made, or that fails to be presented for payment, is considered unclaimed as defined in Section 717.113 [of Florida Statutes] and shall be remitted to the State pursuant to Section 717.117 [of Florida Statutes].” County procedures require unclaimed funds to be remitted to the State of Florida after one year.

While there is no requirement to provide additional notification, it would be a good business practice for the County to notify potential claimants prior to escheatment.

We recommended management develop and implement procedures requiring claimants to be notified of unclaimed tax deed surplus funds prior to escheatment.

Management’s Response: See Appendix A for County Administration’s Response.

Status: Partially Implemented. Management asserts that RTT has done some work with the County Attorney’s Office and the first escheatment is not scheduled until April 2020, and there may be some potential legal issues with the impact of the recommendation which necessitates RTT working with the County Attorney’s Office. The County Attorney’s Office has advised management against providing additional notice that exceed what is required by statute.

11. Written Procedures for Tax Deed Sales were Inadequate.

During the period the potential fraudulent transactions were paid, the Tax Deed Sales Section had no written procedures for processing third party claims involving POAs. After the issues were discovered, the Division issued written procedures on July 20, 2017, and revised the claim form to require the former property owner to provide a copy of a government issued identification card and require staff to contact the former property owner to validate the POA.

Despite newly implemented procedures, in August 2017, the section processed an additional \$3,000 payment to one of the POAs involved with potentially fraudulent claims. This payment was made after a local municipality returned a \$3,000 check to the County. This additional \$3,000 was subsequently paid to the POA without requiring the government issued identification and confirming the validity of the POA. Fortunately, this payment was undeliverable and returned to the County by the Post Office.

We recommend management continue the development of detailed procedures, and:

- A. Ensure claims submitted through POAs are supported by copies of a government issued identification and confirmed with former property owners to ensure validity as required by current procedures.
- B. Notify the claimants on the O&E Report for this Tax Deed, process valid claims for the \$3,000, or remit unclaimed proceeds to the State of Florida.

Management's Response: See Appendix A for County Administration's Response.

Status:

- A. Implemented.
- B. Implemented.

12. No Quality Assurance Procedures Exist to Ensure all Excess Auction Proceeds were Distributed to Appropriate Claimants.

No procedures exist to require the Tax Deed Sales Section to ensure excess proceeds from each auction are reviewed by the County Attorney and properly disbursed. This would require someone other than the staff assigned to process tax deed surplus funds to perform a quality assurance review of the files. This review would ensure all funds from tax deeds sold at each auction were properly paid to claimants, interpleaded, or escheated to the State of Florida. This is a control which could prevent or detect unauthorized or inappropriate payments.

Failure to perform quality assurance reviews resulted in inappropriate disbursements going undetected.

We recommend management implement quality assurance reviews to ensure all accounts with excess proceeds in each auction are appropriately processed.

Management's Response: See Appendix A for County Administration's Response.

Status: Implemented.

13. Responses Provided to Customer Inquiries Lacked Complete and Accurate Information.

Throughout the review, we noted that responses to customer inquiries lacked complete information and were often non-responsive, and dismissive. In the response to an inquiry concerning one of the potentially fraudulent claims, the former Supervisor's response to the email stated:

“The involvement of the Tax Deed Section ends with the reconciliation and notification of a completed auction. All claims are subsequently submitted to the Office of the County Attorney for its consideration and approval.

The Tax Deed Section does not provide the status of a claim and or its disbursement as the Tax Deed Section is no longer privy to the process of a claim.”

This response is not accurate and does not exemplify good customer service because the Tax Deed Sales Section is the repository for claims and is privy to updated information concerning all claims. Although claims are reviewed by the County Attorney’s Office to determine payment priorities, the Tax Deed Sales Section is responsible for initiating the disbursement document and the authorization for payment prior to further approval by the County Attorney and payment by the Accounting Division. It is important that all information provided is accurate and complete.

We recommended management establish a protocol to assist staff in providing more comprehensive and accurate responses to public records requests and disbursement inquiries.

Management’s Response: See Appendix A for County Administration’s Response.

Status: Implemented.

14. The Office of the County Auditor Should Be Formally Notified by County Administration of Potential Fraud Situations.

The County has no policy requiring that the Office of the County Auditor be formally notified of suspected fraudulent activities or irregularities. As a result, our Office was not formally notified by County Administration of the alleged fraudulent activities. While County management indicated the prior County Auditor was verbally informed of this situation, our Office has no record of such. However, immediately after it appeared in the local newspaper on July 6, 2017, 11 months after County Administration first became aware of the issue, our Office immediately launched this audit that resulted in the discovery of 23 additional potentially fraudulent payments totaling \$815,835.

When potential irregularities are suspected or detected, it is important to immediately notify the Office of the County Auditor, in writing, to ensure appropriate and immediate actions are taken, including securing appropriate records from alteration or destruction. This will allow our office to take immediate action to audit suspected irregularities, review the potential for involvement of other employees, and identify internal control deficiencies that should be immediately strengthened. While management notified law enforcement which resulted in

charges against an employee, law enforcement did not identify the additional cases, nor is it their role to secure access to records and identify weaknesses in internal controls.

We recommended County Administration implement a formal policy requiring immediate notification, in writing, of potentially fraudulent activities and irregularities to the Office of the County Auditor.

Management's Response: See Appendix A for County Administration's Response.

Status: Partially implemented. Management has notified the County Auditor of potentially fraudulent activities and irregularities; however, no formal policy has been documented.

Appendices

Appendix A: Management's Response – County Administration



BERTHA W. HENRY, County Administrator
115 S. Andrews Avenue, Room 409 • Fort Lauderdale, Florida 33301 • 954-357-7362 • FAX 954-357-7360

TO: Bob Melton, County Auditor
FROM: Bertha W. Henry *B.W. Henry for B. Henry*
SUBJECT: Management Response: Records, Taxes and Treasury Division
Tax Deed Section Audit
DATE: February 22, 2018

Economic conditions affecting the real estate market leading up to 2008 created an unprecedented number of foreclosed-upon properties with multiple years of outstanding delinquent taxes. This uptick in real property delinquencies also increased the number of properties offered at tax deed auction, albeit several years after the market crash.

Until June 2015, the tax deed auctions were held in a public outcry¹ format, which was manually administrated and very labor-intensive. After this time, all tax deed auctions were held online, which opened up the tax deed auction market greatly to a geographically and financially diverse pool of tax deed investors. In turn, this increased the through-put of tax deeds prepared for and brought to auction and, in the end, created a backlog of items containing surplus funds. As part of the post-auction surplus process, staff - in consultation with an Assistant County Attorney - rendered decisions regarding the distribution of the surplus funds.

During the time these pending surplus decisions waited in queue, many inquiries came through for status updates on the tax deed surplus fund distributions. The inquiries originated from potential surplus fund claimants, including property owners, lienholders and third-party "treasure hunters" on behalf of other entities. Some of the timeframes for tax deed surplus funds distribution extended up to two years. This time lag in tax deed surplus funds distribution created opportunities for unscrupulous third parties to "game" the system and collude with County staff. In such instances, distributions were expedited and/or redirected to fraudulent third parties whom were not legally entitled to the tax deed surplus funds.

When fraud was first suspected, the situation was self-reported to the State Attorney's Office to further investigate. Staff involved in Tax Deed Surplus disbursements were reassigned pending the outcome of the investigation and new procedures were immediately implemented.

¹ This is the formal description of the previous auction process.

Follow-up Review of Audit of Tax Deed Sales Section

Management Response: Records, Taxes and Treasury Division Tax Deed Section Audit
February 22, 2018

These included:

- Separation of the tax deed surplus (post-sale) process from the pre-sale and sale processes. This includes oversight by separate supervisory resources and increased staffing coverage of the processes;
- Revised documentation of the tax deed post-sale process, which includes retraining of all involved staff; and
- Revised Power of Attorney (POA) acceptance procedures, which include dual verifications of identification presented in each POA case.

After the implementation of these procedures, there have been no additional fraudulent claims.

In addition, with the assistance of the Risk Management Division and the County Attorney's Office, the Records, Taxes and Treasury Division (RTT) has pursued and obtained full reimbursement of \$2,348,431.62 for the losses incurred from the County's insurance provider, less one singular \$10,000 deductible, as provided for in the County's policy coverage.

This Audit was initiated after the discovery of the fraudulent tax deed surplus transactions that resulted in the indictment of a County employee and the termination of an RTT Supervisor.

c: Monica Cepero, Deputy County Administrator
Drew Meyers, County Attorney
George Tablack, CFO/Director Finance & Administrative Services Department
Tom Kennedy, Records, Taxes & Treasury Division Director

Appendix B: Management's Response – Office of the County Attorney

Andrew J. Meyers
County Attorney



OFFICE OF THE COUNTY ATTORNEY
115 S. Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301

954-357-7600 · FAX 954-357-7641

MEMORANDUM

TO: Bob Melton, County Auditor

FROM: Andrew J. Meyers, County Attorney *ajm*

DATE: February 13, 2018

RE: **Office of the County Attorney's Comments Regarding RTT Audit**

We have reviewed your audit report, which documented significant deficiencies in the process for allocating surplus proceeds resulting from tax deed sales. Some of these deficiencies contributed to the payment of fraudulent claims.

This Office could have done more to reduce the risk of such fraudulent claims. Knowing that substantial disbursements were being made based on powers of attorney, the assigned attorney should have been more proactive in ensuring that the procedures related to the acceptance of powers of attorney were adequate. One of the great advantages of using in-house, salaried counsel is that it affords counsel the opportunity to be far more proactive than hourly, outside counsel on issues such as this. Our assigned counsel failed to take advantage of this opportunity.

Additionally, the Records, Taxes and Treasury Division ("RTT") was relying on the assigned attorney to perform certain nonlegal functions, which should not have occurred. However, if and once the attorney agreed to perform those functions, the attorney should have been more diligent. A good example of this is the check authorization process. Once the attorney provided advice as to how surplus proceeds should have been disbursed (which advice should have been provided in writing), the attorney should not have been part of the check authorization process (a purely staff function). If he allowed himself to become part of that process, as has been purported, he should have reviewed his own written disbursement directive prior to signing off on any check authorization.

The attorney (and, by extension, this Office) should also have been more efficient and careful in the review of which proceeds were ready for distribution and which required the filing of an interpleader. We have determined that a significant part of the longstanding file backlog mentioned in your report was caused by erroneous determinations that interpleaders were required in instances where statutory payment priorities were clearly established.

Broward County Board of County Commissioners
Mark D. Bogen • Beam Furr • Steve Geller • Dale V.C. Holness • Chip LaMarca • Nan H. Rich • Tim Ryan • Barbara Sharief • Michael Udine
broward.org/legal

Bob Melton, County Auditor
February 13, 2018
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I can neither accept nor dispute your conclusion that the assigned Assistant County Attorney provided "grossly inadequate services." I have been unable to review the report with him because, as you know, he was called in by the then County Attorney and me shortly after the fraudulent matters were detected, and he promptly resigned. I can, however, state that a new and highly experienced Assistant County Attorney has been assigned, under the active supervision of a highly experienced Deputy County Attorney. As a result, since last July, this Office has been providing substantially better legal service and has been working to eliminate the longstanding backlog as quickly as possible.

Finally, your report recommends a practice of notifying potential claimants before escheatment. While we are available to further discuss this notion, at this time we would counsel against adopting this practice. Potential claimants should already have received notice of the potential claim, or providing notice would have been attempted at the addresses known to RTT. Any additional notice requirement could prolong the process and create other potential avenues for claims of liability. Additionally, Florida law already provides a mechanism for potential claimants to obtain funds to which they are entitled after escheatment.

AJM/gf

Appendix C: County Auditor's Comments to County Administration's Response

We encourage Management to implement all our recommendations, even though management did not clearly indicate in its response whether it agreed or planned to implement them.

Management stated in its response that the post-sale process had been segregated from the pre-sale and sale processes. While this has already been the procedure, the issue that facilitated the apparent fraud being perpetrated without timely detection was the lack of segregation of duties within the post-sale process. The same person handled the post auction process from beginning to end.

It should be noted that the termination of the supervisor occurred on or about February 13, 2018, which was just prior to the issuance of our report. Prior to that date, she had been transferred to another supervisory role which also involved handling funds within the RTT Division.

We again emphasize the need to notify the County Auditor's Office when any fraud or irregularities are suspected. Had we not performed the audit, \$815,835 of apparent fraudulent transactions may have gone undetected. Further, the serious internal control and procedural deficiencies could have continued without detection.