



Office of Missouri State Auditor
Nicole Galloway, CPA

FOLLOW-UP REPORT ON AUDIT FINDINGS

Benton County Public Administrator

Report No. 2017-139
November 2017

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Benton County Public Administrator Follow-Up Report on Audit Findings Table of Contents

State Auditor's Letter

2

Status of Findings

1.	Questionable Asset Sale and Related Party Transactions.....	3
2.	Controls and Procedures	4
3.	Annual Settlements	5
4.	Fees	7
5.	Duties and Responsibilities.....	8



NICOLE GALLOWAY, CPA **Missouri State Auditor**

To the County Commission
and
Public Administrator of Benton County

We have conducted follow-up work on audit report findings contained in Report No. 2017-022, *Benton County Public Administrator* (rated as Poor), issued in April 2017, pursuant to the Auditor's Follow-Up Team to Effect Recommendations (AFTER) program. The objectives of the AFTER program are to:

1. Identify audit report findings that require immediate management attention and any other findings for which follow up is considered necessary at this time, and inform the official about the follow-up review on those findings.
2. Identify and provide status information for each recommendation reviewed. The status of each recommendation reviewed will be one of the following:
 - Implemented: Auditee fully implemented the recommendation, either as described in the report or in a manner that resolved the underlying issue.
 - In Progress: Auditee has specific plans to begin, or has begun, to implement and intends to fully implement the recommendation.
 - Partially Implemented: Auditee implemented the recommendation in part, but is not making efforts to fully implement it.
 - Not Implemented: Auditee has not implemented the recommendation and has no specific plans to implement the recommendation.

As part of the AFTER work conducted, we reviewed documentation provided by the Public Administrator and court officials and held discussions with these officials to verify the status of implementation for the recommendations. Documentation provided by the Public Administrator and court officials included ward annual settlements, notices of required filings, judicial orders, ward receipt and disbursement records, and various other financial records. This report is a summary of the results of this follow-up work, which was substantially completed during October 2017.

A handwritten signature in black ink that reads "Nicole R. Galloway".

Nicole R. Galloway, CPA
State Auditor

Benton County Public Administrator

Follow-Up Report on Audit Findings

Status of Findings

1. **Questionable Asset Sale and Related Party Transactions** The Public Administrator improperly allowed the sale of a ward's assets and paid related parties for services performed. The Public Administrator was responsible for all financial activity of the ward's personally titled funds and assets, and the Public Administrator's mother and cousin were responsible for all financial activity of funds and assets held in the ward's family trust.

The Public Administrator improperly allowed her mother and cousin to sell a ward's vehicle on June 27, 2016, for \$7,800 to an employee of the accounting and tax business operated by the Public Administrator and her mother. There was no order from the Circuit Judge, Probate Division, authorizing the sale of this vehicle. The \$7,800 proceeds from the vehicle sale were not deposited into the ward's bank account administered by the Public Administrator. Instead, these monies were improperly deposited into the ward's family trust account. After our inquiries, the Public Administrator recovered the \$7,800 from the family trust and deposited the funds into the ward's bank account on February 21, 2017. We also noted the Public Administrator paid her cousin \$815 from the ward's account for time, mileage, and meals related to transporting the ward and/or his property during June and July 2016.

A review of other wards' annual settlements and bank account activity determined the Public Administrator paid her family's accounting and tax business a total of \$1,886 from the accounts of 4 wards during 2014, 2015, and 2016 for tax preparation services.

Recommendation

The Public Administrator avoid the appearance of a conflict of interest that could prevent her from objectively performing her duties. The Public Administrator should also ensure documentation is maintained of the consideration of persons other than family members for services provided to wards.

Status

Implemented

The Public Administrator and some wards may continue to receive services from her family's accounting and tax business, and her mother and cousin continue to serve as successor joint co-trustees for a ward's family trust. To alleviate conflicts of interest, the Public Administrator and court implemented a formal policy regarding approval of transactions that represent a potential conflict of interest. The Public Administrator attempted to obtain quotes for tax preparation services from other tax professionals but did not receive any responses. The Public Administrator provided documentation of these efforts to the Circuit Judge, Probate Division, when submitting invoices from her family's accounting and tax business for court approval. In accordance with the recently implemented formal policy, the Public Administrator now seeks the judge's prior approval regarding any transactions that represent a potential conflict of interest and obtains a court order as authorization. We reviewed annual settlements and supporting documents of 4 wards and noted 1 ward's



Benton County Public Administrator
Follow-up Report on Audit Findings
Status of Findings

financial activity showed a payment to the Public Administrator's family's accounting and tax business. An order from the Circuit Judge, Probate Division, approved this transaction prior to payment.

2. Controls and Procedures

The Public Administrator did not adequately monitor the financial activity of some wards, causing wards to incur unnecessary bank overdraft fees. In addition, case files and disbursement records were not always complete and accurate.

2.1 Monitoring

The Public Administrator did not adequately monitor ward account balances and did not maintain running cash balances in the checkbook registers. Upon receipt of the monthly bank statements, the Public Administrator used the checkbook registers to record the receipts and disbursements in the accounting software for preparation of the bank reconciliations. Once reconciled, the Public Administrator then recorded the monthly account balance in the ward's checkbook register. This method did not allow the Public Administrator to easily determine each ward's account balance on a daily basis. As a result, 11 wards were charged non-sufficient funds and overdraft fees by the bank totaling \$370. The bank refunded \$125 of these fees.

Recommendation

The Public Administrator monitor financial activity and maintain a running balance in the checkbook registers to ensure sufficient funds are available for disbursements to avoid unnecessary bank charges.

Status

Implemented

We reviewed the checkbook registers of 4 wards and observed running cash balances being maintained. The Public Administrator indicated she is closely monitoring bank accounts and ensuring automatic deposits have cleared the bank to ensure funds are available prior to issuing disbursements. In addition, the Public Administrator is in the process of entering wards' financial activity into a new software program that will make it easier to manage their accounts.

2.2 Case files

The Public Administrator did not retain complete case files for all wards and did not have a system to track the location and custody of case files.

The Public Administrator did not always maintain copies of the approved annual settlements, status reports, inventory reports, and court orders in the case files. As a result, we obtained numerous records from the Circuit Court, Probate Division, to do our work. The Public Administrator could not locate and provide us with 2 case files requested during the audit. Upon request, the Public Administrator's attorney was able to provide copies of some documentation for these cases.



Benton County Public Administrator
Follow-up Report on Audit Findings
Status of Findings

Recommendation The Public Administrator retain adequate documentation for each ward and implement procedures to track the location and custody of case files.

Status **Implemented**

The Public Administrator has obtained a user login for immediate access to approved annual settlements, status reports, inventory reports, and court orders on case.net, the Missouri state courts automated case management system, which tracks case activity and related court documents. In addition, she is now maintaining all case files for wards at her office. Current case files for active wards are in filing cabinets while non-current and closed case files are in storage at her office. If her attorney needs a case file, the Public Administrator indicated she takes the file to the attorney's office for scanning of documentation and immediately brings it back to her office.

2.3 Disbursement records The Public Administrator did not always maintain accurate disbursement records. For 2 cases the recorded disbursement activity did not agree to the actual bank activity, and no explanation could be provided.

Recommendation The Public Administrator maintain accurate accounting records for all disbursements.

Status **Implemented**

We reviewed supporting documents for all disbursements listed on the most recent annual settlements of 4 wards, and determined all disbursements were properly recorded, supported by adequate documentation, and agreed to the actual bank activity.

3. Annual Settlements The Public Administrator did not always file annual settlements and/or status reports and inventory reports timely, and those filed were not always complete and accurate. In addition, the court did not have procedures to notify the Public Administrator of reports due.

3.1 Timely filing For each ward or estate, the Public Administrator was required to file an annual settlement and/or status report with the Circuit Court, Probate Division, on the anniversary date of letters reflecting a detailed list of assets held, as well as financial activity for the previous year. We noted annual settlements or status reports were not filed for 10 cases. For 4 of these 10 cases, annual settlements or status reports had not been filed for 3 to 5 years. In addition, the Public Administrator did not file inventory reports within the required timeframe for 18 cases.

Recommendation The Public Administrator file annual settlements, status reports, and inventory reports timely.



Benton County Public Administrator
Follow-up Report on Audit Findings
Status of Findings

Status

Implemented

For the 4 wards we reviewed in detail, 3 required annual settlements and 1 required a status report. The annual settlements were filed timely in 2017, and the status report was filed 2 months late, in April 2017 approximately 1 week after the release of our audit report. We obtained documentation from the Circuit Court, Probate Division, indicating the Public Administrator has filed all annual settlements and/or status reports due as of our follow-up review in October 2017. We also reviewed 2 letters granting guardianship and conservatorship to the Public Administrator in December 2016 and April 2017 and noted the related inventory reports were filed within the required timeframes stated in the letters. The Public Administrator's new software program will expedite the preparation of annual settlements and status reports by generating the reports from the accounting information recorded into the system as transactions occur. In addition, notices now being issued by the Circuit Court, Probate Division, will help ensure timely filing of annual settlements and status reports.

3.2 Complete and accurate

The Public Administrator did not always file complete and accurate annual settlements and inventory reports. For 7 of 90 cases reviewed, the assets listed on the annual settlement or the inventory report did not accurately reflect all assets owned by the ward.

Recommendation

The Public Administrator ensure annual settlements and inventory reports are complete and accurate.

Status

Implemented

We reviewed reports filed in 2017 for 6 cases including 4 annual settlements and 2 inventories, and compared the filings to various financial and bank records. We reviewed the accounting records for expenditures related to assets, such as vehicles or real estate, and verified the inventory or annual settlement included the assets, as applicable. We did not identify any concerns with the completeness and accuracy of the settlements and inventories for those cases. In addition, the Public Administrator is in the process of entering wards' cases and financial activity into a new software program that will help ensure the accuracy of the annual settlements and inventory reports and allow for activity to be updated as it occurs.

3.3 Notification

The Circuit Court, Probate Division, did not timely notify the Public Administrator prior to the filing deadline for the annual settlement or status report or follow up on settlements or reports not filed by the required date.

Recommendation

The Circuit Court, Probate Division, timely notify the Public Administrator of annual settlement or status report deadlines and follow up on settlements or reports not filed by the required date.



Benton County Public Administrator
Follow-up Report on Audit Findings
Status of Findings

Status

In Progress

In October 2017, court personnel provided a report of Public Administrator cases showing notices had been sent to the Public Administrator for filings due in October, November, and December 2017. However, we reviewed 5 notices mailed in October 2017 and 1 mailed in June 2017 and noted 2 were not sent within statutory timeframes. Notices that should have been mailed on or before September 17, 2017, and September 28, 2017, were not mailed until October 11, 2017, and October 10, 2017, respectively. The Chief Deputy Court Clerk generates monthly reports of upcoming filing deadlines and provides them to the Probate Clerk who is responsible for preparing and mailing the notices. Beginning in November 2017, the Chief Deputy Court Clerk will perform supervisory reviews of the notices prepared and mailed to ensure all notices have been mailed in the required timeframe. In addition, the Circuit Clerk will require court personnel to schedule annual case reviews in the case management system for the court to receive an additional reminder to review and mail any required notices.

4. Fees

The Public Administrator issued checks for fees prior to, or without, the approval of the Circuit Judge, Probate Division. In addition, the Public Administrator did not maintain documentation to support fees charged and did not remit some fees timely.

4.1 Approval of fees

The Public Administrator issued checks for payment of fees prior to, or without, approval of the Circuit Judge, Probate Division. We also identified fees paid in excess of the amounts stated in the judicial orders. In addition, the Public Administrator sometimes paid attorney fees without judicial approval.

Recommendation

The Public Administrator obtain court approval prior to disbursing fees.

Status

Implemented

The Public Administrator now obtains court orders authorizing fees prior to issuing checks for the payment of those fees. We reviewed disbursement records and court orders of 4 wards and noted checks for fees were issued after the Circuit Judge, Probate Division, approved the related orders.

4.2 Fees assessed and collected

The Public Administrator did not maintain a fee schedule or document criteria used when determining the appropriate fee to charge, and did not remit some fees timely. We could not recalculate fees charged using the percentage provided by the Public Administrator and we identified 21 cases in which the fees were not remitted to the County Treasurer within 30 days of the judicial order allowing the fee.



Benton County Public Administrator
Follow-up Report on Audit Findings
Status of Findings

Recommendation

The Public Administrator work with the court to establish a formal policy outlining the fee amount to assess wards and remit fees timely to the County Treasurer.

Status

In Progress

The Circuit Judge, Probate Division, and the Public Administrator established a fee schedule in April 2017 and formalized it in a written policy as of October 31, 2017. For 4 wards reviewed, the fees assessed were calculated in accordance with the policy. For 3 of the 4 wards, fees were disbursed timely to the County Treasurer. The fee order for the remaining ward was approved in August 2017, but the fees had not been disbursed at the time of our follow up work in October 2017. The Public Administrator immediately disbursed the fees upon our inquiry and is implementing new procedures to ensure fees are paid timely. Beginning November 1, 2017, she will file a copy of each petition for fees in the unpaid bills folder when she files the petition with the court. Her regular review of this folder will remind her to obtain the approved order for fees and ensure payment is made timely.

5. Duties and Responsibilities

The Public Administrator handled finances for some wards without authority of the court. For 9 wards, the Circuit Judge, Probate Division, appointed the Public Administrator as guardian only (a person appointed to have the care and custody of the person, not the estate); however, she reported receiving and disbursing monies for 5 of these wards.

Recommendation

The Public Administrator perform duties and responsibilities as appointed by the court.

Status

Implemented

The Public Administrator indicated she requested and received letters of conservatorship for all wards for which she was handling finances without court authorization. We reviewed the letters of conservatorship for 3 of the 5 wards identified during the audit. The Public Administration is no longer handling finances of the other 2 wards because these cases were finalized and closed prior to our follow-up work. Also, we verified the Public Administrator is the court appointed guardian and conservator for all new wards assigned to her during 2017 for which she is handling their finances.