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COUNTY OF ERIE

DAVID J. SHENK
COMPTROLLER

May 16, 2012

Hon. Christopher L. Jacobs
Erie County Clerk
92 Franklin Street
Buffalo, NY 14202

RE: Comptroller Consultation of Former Clerk Employee

Dear County Clerk Jacobs:

In response to your letter attached, I must disagree with your assessment.

The Comptroller General of the United States oversees the General Accounting Office ("GAO"). The GAO publishes the "Yellow Book" standards, the standards used by the Comptroller's Division of Audit and Control. The Yellow Book standards define an audit. The work done for your office was NOT an audit. The report states, at several points, that this is not an audit.

Please note that the work performed by the Division of Audit and Control was in fact performance of **consulting work at the request of the Clerk** and not an audit. This project was a review, and was performed as such. As per the 2011 Yellow Book Standards a review consists of testing to express a conclusion on conformity with specific guidelines or an assertion from the entity under review (see below).

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"Types of Generally Accepted Government Auditing Standards ("GAGAS") Audits and Attestation Engagements

2.02 This section describes the types of audits that audit organizations may perform in accordance with GAGAS. This description is not intended to limit or require the types of audits that may be performed in accordance with GAGAS.

2.09 b. Review: Consists of sufficient testing to express a conclusion about whether any information came to the auditors' attention on the basis of the work performed that indicates the subject matter is not based on (or not in conformity with) the criteria or the assertion is not presented (or not fairly stated) in all material respects based on the criteria. "

It was with this in mind that the Deputy Comptroller – Audit reasonably assessed that there was no expressing of a conclusion about the reliability of an assertion associated with this project.

After I became Comptroller, and this office had retained the services of Mr. Adamchick, I met with the Deputy Comptroller – Audit and Mr. Adamchick to discuss the work being performed at your request and if any potential conflicts existed. Both Mr. Adamchick and the Deputy Comptroller – Audit assured me that the work was a consulting engagement and the issues of independence and conflict of interest were not a concern.

You asked, as we state in the report, that the Division of Audit and Control:

- Determine whether internal control procedures were in place. If so, were they properly designed to safeguard County assets and were the controls operating effectively?
- Review the current processing system, evaluate the backflow of documents, provide findings and recommend corrective actions.

Neither of these requests included any criteria or assertions by which to express any conclusion. Both requests asked the Division of Audit and Control to use professional judgment in evaluating the current systems in place and make recommendations to improve those systems.

I was aware that allowing Mr. Adamchick, the former Finance Deputy, to review his own work would be improper. The Deputy Comptroller – Audit agreed and stated categorically that at no time did Mr. Adamchick ever review his own work. The internal controls of any organization are the responsibility of management, and it was the internal controls of the Clerk's Office that were evaluated - not the quality or integrity of the work performed by the former Finance Deputy.

I was aware of the possibility that Mr. Adamchick's involvement in this project could raise questions of independence. The Deputy Comptroller – Audit has assured me that Mr. Adamchick was not involved in the financial internal controls findings in any way. Our recommendations in that area were based on discussions Frank Belliotti, CPA, had with the Clerk's staff while doing fieldwork at the Clerks' Office.

Both Frank Belliotti, CPA, and David Kinda, an employee with over thirty years of government auditing experience, recognized several control issues when they interviewed the then Finance Deputy. The problems became obvious quickly. They are documented in our report.

Your suggestion that Mr. Adamchick's presence in the office "impaired unbiased assessment" or violated Rule 101 is inaccurate: no assessment was performed. The work performed by the Division of Audit and Control was based on a request from the Clerk to observe procedures and make recommendations for those procedures. **It was a request for consulting work, and not an audit.**

Sincerely Yours,

David J. Shenk

Erie County Comptroller

cc: Hon. Mark Poloncarz, Erie County Executive
Members, Erie County Legislature
Erie County Fiscal Stability Authority

COUNTY OF ERIE

CHRISTOPHER L. JACOBS
COUNTY CLERK

May 11, 2012

Hon. David J. Shenk
Erie County Comptroller
95 Franklin Street, 11th Floor
Buffalo, NY 14202

RE: Comptroller Consultation of Former Clerk Employee

Dear Comptroller Shenk:

Soon into taking office, I became concerned with the systems currently in place in terms of the financial management of the Clerk's Registrars Division. Considering the significant amount of money processed in this Division on a daily basis, I made a request to the Interim Comptroller to conduct an analysis of our internal control procedures. In a subsequent meeting with your staff, as I became more aware of the severity of our backlog in the Land Records Division, an assessment of our Land Records recording process was added to the job scope.

Although pleased to receive the draft report recently, I feel compelled to object to the involvement of Mr. Mark Adamchick in any aspect of this report. The Comptroller's assessment of our internal controls exclusively dealt with our Finance Deputy position, a position that Mark Adamchick held until he was relieved of his duties in March of this year.

While Mr. Adamchick was still employed as the Finance Deputy I had him meet at length with the auditors from your Office to provide any information they required and to show them how he performed his job responsibilities, which I believed to be appropriate. What I believe to be inappropriate, for numerous reasons, is to have Mr. Adamchick, now an employee of your office, to "consult" in any way in the work product of this report.

I would have assumed that your Office, in an effort to insure the independent integrity of this report, would have made sure that Mr. Adamchick had no involvement whatsoever in this report.

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Furthermore, Mr. Adamchick as a CPA should have recused himself under his own volition. Reviewing one's own work violates Rule 101 (Independence) of the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct. Further, the guidelines of the Internal Auditors, IIA code of ethics forbids participating in activities that may "...impair or be presumed to impair unbiased assessment."

Simply put, to have Mr. Adamchick assessing himself seems to be the definition of a conflict of interest. I regret to say that Mr. Adamchick's involvement compromises the validity of the internal controls portion of this report.

Sincerely yours,

Christopher J. Jacobs
Erie County Clerk

cc: Hon. Mark Poloncarz, Erie County Executive
Members, Erie County Legislature
Erie County Fiscal Stability Authority