



COUNTY OF ERIE

MICHAEL P. KEARNS
COUNTY CLERK

September 30, 2025

The Honorable Erie County Legislature
92 Franklin Street – Fourth Floor
Buffalo, New York 14202

Re: Response to Forensic Audit Report of the Erie County Clerk's Office

Dear Honorable Members:

The Erie County Clerk's Office ("Clerk's Office") received the Forensic Audit Report ("Report") by Weaver and Tidwell, LLP ("Weaver") on September 26, 2025 via email from the Erie County Attorney. The Clerk's Office hereby submits this Response to Weaver's Report.

For reference, the Report was requested by a resolution adopted by the Erie County Legislature on September 26, 2024, attached hereto as **Exhibit "A"**, and an Engagement Letter was signed by Erie County Attorney Jeremy Toth on October 11, 2024, attached hereto as **Exhibit "B"**. An Exit Conference was held via videoconference on September 4, 2025, with members of the Clerk's Office, Weaver, and the Erie County Attorney in attendance.

Summary

Weaver's Report states primarily the following two points, which were the same conclusions stated by the Erie County District Attorney and Erie County Sheriff at a press conference on March 15, 2024 announcing the arrest of the former Finance Deputy Clerk:

- **No additional criminal conduct was found to have occurred by any County employee.**
- **No additional missing or misappropriated funds were discovered.**

Weaver's Report also agrees with the findings and recommendations of the Erie County Comptroller's Office in its prior audits.

Erie County residents can now be assured that an external forensic auditor has verified that there is no more missing money from Clerk's Office Concentration Account, no other bad actors, and that the same findings and recommendations of the Erie County Comptroller's Office were echoed by Weaver, since they have already been corrected by the Clerk's Office. It must be noted that this Report, despite being largely duplicative, came at a considerable cost to taxpayers.

Response to Purported Delays In Audit Completion

Weaver's assertion that "Weaver's ability to complete the engagement in a timely and thorough manner was impeded by delays and omissions in data provision from the Clerk's Office" (p.4) is incorrect. The Clerk's Office received one (1) Documentation Request on December 3, 2024, which was responded to on January 24, 2025. No questions or follow-up were presented by Weaver as to this response. All purported delays are properly attributable to either Weaver or the Erie County Law Department.

As to access to Clerk's Office software: Weaver was informed at the time of their request that said records management and cashiering software does not support providing access to its financial components with restricted permissions. To review transactional data, users must have permissions to the underlying records associated with those transactions, which would expose sensitive and sealed information. Because the system cannot limit or suppress access to specific data types, granting such access would compromise the confidentiality and security of the information contained within the system. Therefore, the Clerk's Office was unable to provide the requested access. Most importantly, at the video conference held on July 25, 2025, Legislator Majority Leader Gilmour asked Weaver representatives if anything else was needed from the Clerk's Office to complete the audit, and was told "no".

Response to Objective 1: No Further Criminal Conduct Was Discovered By Any County Employee.

The Engagement Letter stated that Objective 1 was "To discover any further criminal conduct by any County employee." The Report failed to identify any further criminal conduct other than what was identified in previous audits, and for which the former Finance Deputy Clerk is currently serving a prison sentence. By failing to identify any further criminal conduct, the Report verifies the statements previously made by the Erie County District Attorney's Office and the Erie County Sheriff's Office on March 15 2024, announcing the arrest of Alexander McDougall:

District Attorney John Flynn: "I think it is important to note that 55-year old Alex McDougall has been arrested today. No one else from the Clerk's Office has been arrested today. **And there is no indication that anyone else in the Clerk's Office is involved in this at all or has anything to do with the thefts.**"

Sheriff John C. Garcia: "And this is not a reflection upon the great work that our County Clerk Michael "Mickey" Kearns and his people are doing day-in and day-out. There are millions and millions of dollars as the District Attorney said going through the Clerk's Office. **And one bad apple has been removed, and the public is, can rest assure, that there is no other person involved.**"

Video of the 32-minute conference is available at the following link:

<https://www.wivb.com/news/local-news/erie-county/fired-erie-county-deputy-clerk-charged-with-stealing-over-215k-from-clerks-office/>

It is curious why this forensic auditing firm was assigned this Objective despite Weaver's own acknowledgment that it cannot "provide legal opinions or determinations". Regardless, with no additional findings of criminal conduct, this section of the Report ends with nothing more than a tone of speculation and innuendo.

**Response to Objective 2:
Weaver's Review Was Redundant And Added Nothing New To The Erie County
Comptroller's Office Findings And Recommendations.**

The Engagement Letter stated that Objective 2 was "To discover if the Clerk's office is accurately and appropriately distributing funds collected by the Registrar's Division." This language was properly reflected in the Report.

Weaver's conclusion as to Objective 2 is that it "agrees with the findings outlined in the August 23, 2023 audit report" of the Erie County Comptroller's Office, based on its "analysis of the Comptroller's audit workpapers." Based on Weaver's "conclusion", it appears that the result of Objective 2 is nothing more than a redundant rehash of the Erie County Comptroller's findings.

To be clear, no additional monies are alleged to be missing, which again verifies the investigation by the Erie County District Attorney and the Erie County Sheriff.

The Clerk's Office has previously responded to the findings of the Erie County Comptroller's various audits. The responses were released to the public on September 25, 2024, February 5, 2024, and March 28, 2024, respectively. As a result of the Erie County Comptroller's findings, the Clerk's Office has implemented a host of changes in its financial oversight structure, including the hiring of an experienced forensic auditor as the new Finance Deputy Clerk, and is in the process of implementing a new recordkeeping software system.

Weaver's recommendations mirror those of the Erie County Comptroller's Office which the Clerk's Office has already addressed and improved upon. Each recommendation should have noted something to the effect of: "Weaver has spoken with the Clerk's Office and learned that these changes have already been implemented based on the prior audits by the Erie County Comptroller's Office."

**Response to Objective 3:
Weaver's Review Was Redundant And Added Nothing New To The Erie County
Comptroller's Office Findings And Recommendations.**

The Engagement Letter stated that Objective 3 was "To recommend more effective controls of the Concentration Account." This language was properly reflected in the Report.

Once again, Weaver's "Findings" mirrored those of the Erie County Comptroller's Office, as did their "corrective actions." As previously stated on the record and in the written audit responses, the Clerk's Office has implemented a host of changes in its financial oversight structure, including the hiring of an experienced forensic auditor as the new Finance Deputy Clerk, and is in the process of implementing a new recordkeeping software system.

Conclusion

Since 2023, the Clerk's Office has been audited no less than three (3) times by the Erie County Comptroller's Office, at least one (1) time by the New York State Comptroller's Office, and participated in an investigation with the Erie County District Attorney and the Erie County Sheriff, which led to an arrest and conviction of the former Finance Deputy Clerk. In 2024, the Erie County Legislature voted to bring in an outside forensic auditor (Weaver) to seek out any further criminal conduct.

The Clerk's Office is once again grateful for all findings and recommendations by Weaver which impact both the Clerk's Office and other County departments (including the alleged deletion of County emails by the County Division of Information and Support Services). The need for an outside, forensic auditor to review the work of the Erie County Comptroller, Erie County Sheriff, and Erie County Sheriff District Attorney, and spend taxpayer money to do so, is questionable at best and it appears there are no new recommendations to be implemented.

Respectfully submitted,



MICHAEL P. KEARNS
Erie County Clerk

MPK/wal

Encl.

Cc: Jeremy Toth, Erie County Attorney
Hon. Kevin Hardwick, Erie County Comptroller

**A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS GILMOUR, BARGNESI, AND VINAL**

Re: Call for an External Forensic Audit of the County Clerk's Office

WHEREAS, the Erie County Comptroller's Office recently conducted two audits of the County Clerk's Office - Registrar Division between January 1, 2022 and December 31, 2022; and

WHEREAS, the audits found some troubling issues in the Clerk's office, including the use of outdated software in managing public funds; and

WHEREAS, the use of outdated software and outdated office managing practices have led to errors in reporting, collecting, and distributing mortgage tax revenues; and

WHEREAS, those revenues are important to the towns and cities within the County, the Niagara Frontier Transportation Authority, and the State of New York Mortgage Agency; and

WHEREAS, throughout the course of the audit, the Comptroller's office has found many instances of inconsistencies and discrepancies within the Office of the County Clerk, and for that reason have recommended an external audit be conducted; and

WHEREAS, an external audit will allow for an independent, full-service, professional audit agency to build upon the internal audits that have been conducted and provide expert recommendations to ensure our residents' County tax dollars are protected to the highest degree; and

WHEREAS, this Honorable Body previously approved Intro. 5-4 (2024) and Intro. 9-6 (2024) calling for an external audit of the office of County Clerk; and

WHEREAS, this Honorable Body's authority to call for such external audit lies in the County Charter, Article 2, Section 201(8) which provides the Legislature to "make studies and investigations it deems in the best interest of the County, and in connection therewith to obtain professional and technical advice..."; and

WHEREAS, the call on the County Attorney to conduct an RFP to conduct an external audit on the office of the County Clerk is the Legislature acting to make an investigation in the best interest of the County, due to previous findings of improper use of taxpayer dollars, by obtaining professional and technical advice from an independent, external auditor with the expertise and capacity to complete a thorough audit of the office of the County Clerk.

NOW, THEREFORE, BE IT

RESOLVED, this honorable body rescinds Intro. 5-4 (2024) calling on the County Clerk to conduct an RFP for an external audit of the office of the County Clerk; and be it further

RESOLVED, that the County Attorney is authorized to hire an accountant to perform an audit, as articulated in the request for proposals issued to various accounting firms on June 20 by the County Attorney, with the specific scope of work to be an audit of the Erie County Clerk's Concentration Account for the time period starting in 2017 and ending in 2021 in order to discover any further criminal conduct by any county employee, to discover if the Clerk's office has accurately and appropriately distributed monies collected by the Registrar's office and to recommend more effective controls over this account; and be it further

RESOLVED, that the Erie County Clerk and the Erie County Comptroller be consulted during the audit, including but not limited to, participation as a subject in any interviews conducted by the external audit team, and the ability to review the external audit prior to its finalization; and be it further

RESOLVED, that the Erie County Clerk is directed to preserve any records, both paper and electronic, that have the potential to be lost as the Clerk begins its transition to a new software system; and be it further

RESOLVED, the Clerk of the Legislature is directed to send copies of this resolution to the Erie County Clerk, the Erie County Comptroller, the Erie County Executive, the County Attorney, the Budget Director, the New York State Comptroller, and any other parties deemed necessary.



October 10, 2024

Jeremy Toth
Erie County Attorney, Erie County (NY)
Erie County Department of Law
95 Franklin St., 1634
Buffalo, NY 14202

Re: Forensic Audit of the Erie County Clerk's Office

Dear Mr. Toth:

This engagement letter confirms that the County of Erie ("you" and "your"), has retained Weaver and Tidwell, L.L.P. ("our", "us", and "we") to provide professional services in the above-referenced matter.

The objective of our engagement will be to conduct a forensic audit of the Erie County Clerk's Office "Concentration Account" during the time period from 2017 to 2021. The objectives of the forensic audit include:

1. To discover any further criminal conduct by any County employee;
2. To discover if the Clerk's office is accurately and appropriately distributing funds collected by the Registrar's Division; and
3. To recommend more effective controls of the Concentration Account.

We will communicate regularly with you to receive direction on the specific nature of the services we are to perform and the subject matter of any opinions you wish us to consider.

At the conclusion of our engagement, we will summarize our findings in a written report and other formats that most clearly communicate the issues. Typically, we report the results of our engagements in oral presentations and spreadsheets in addition to written reports, as appropriate.

Fees and Invoicing

We estimate the fee for this engagement will be \$140,000. We will charge for our time at our discounted hourly rates set forth below. The total fee for our services will be determined by the complexity of the work performed and the tasks required. Individual hourly rates vary according to the degree of responsibility involved and the skills required. The rates are subject to periodic review and may change at the beginning of each of our fiscal years (June 1st). It is understood that neither our fees nor the payment thereof will be contingent upon the results of this engagement.

Staff Level	Discounted Hourly Rate
Managing Director / Partner	\$375 - \$485
Senior Manager / Director	\$325 - \$350
Supervisor / Manager	\$240 - \$315
Associate / Senior Associate	\$190 - \$225
Intern	\$170

Our fee estimate is based on anticipated cooperation from all involved and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss the reasons with you and arrive at a new fee estimate before we incur the additional costs.

Our invoices are payable on presentation and will be rendered (generally monthly) as work progresses. Each invoice will include our administrative and technology charge referenced in the General Terms. The charge is currently

Weaver and Tidwell, L.L.P.

CPAs AND ADVISORS | WEAVER.COM

October 10, 2024

calculated as a percentage (5.0%) of our fees and is subject to periodic review and change. The obligation to pay for our services exists whether arising from your request or if otherwise identified by us during the course of this engagement and is not contingent on the results obtained as we do not warrant or predict results or the final outcome of the engagement.

Our Responsibilities

In conducting our research or reaching our conclusions, we may rely on representations made by you and others acting on your behalf.

Our services will be performed pursuant to the Statement on Standards for Forensic Services No. 1, promulgated by the American Institute of Certified Public Accountants ("AICPA"). As part of this engagement, we will not be performing attest services as defined by the AICPA and therefore these services will not include the compilation, review, or audit of financial records or financial statements.

Third-Party Service Providers

Depending on the requirements of this engagement, we may use the services of our affiliate, Weaver and Tidwell India LLP, a limited liability partnership incorporated in India, or one or more other third-party service providers to assist us. Before sharing confidential information with those service providers, we will (i) secure agreements to maintain the confidentiality of confidential information and ensure the confidential information is only used for the purpose of assisting us with the performance of this engagement and (ii) take commercially reasonable precautions to determine the service providers have appropriate procedures in place to prevent the unauthorized disclosure of confidential information. If we use such service providers, we will remain responsible for all work performed and any breach of our confidentiality arrangements by those service providers.

Your Responsibilities

You will determine the nature of the services we are to perform and keep us informed of material changes to the scope or objectives of our services. If this engagement includes testifying expert services, you agree to provide us with reasonable advance notice of any requirement for appearance at a deposition or court hearing and all applicable deadlines. You will also inform us promptly of any legal proceeding (such as an objection or motion) challenging the admissibility or basis of the opinion or testimony of any of our professionals assigned to this engagement. The notice shall be in writing and include the style of the case, the case number, and court in which the challenge has been asserted, as well as the nature of the challenge. We reserve the right to take all steps necessary to respond to any such challenge, including interceding on the professional's behalf with written motion and briefing, and you agree to cooperate with us to facilitate our response. Such efforts by us though will not be taken on your behalf or otherwise supplant efforts which you may decide are appropriate and necessary to protect your interests.

Additional Ethical Conflict Terms

We provide services to many attorneys, companies, and individuals in various industries and geographic locations, including services of a similar nature to this engagement. We have reviewed the information you have provided to us about the parties and related persons and entities participating in or connected to this engagement and we are not aware of any conflicts of interests which would impact our ability to perform the requested services. You agree to inform us if there is a change or addition of any parties or related persons and entities—including attorneys—participating in or connected to this engagement. We reserve the right to withdraw from this engagement if, in our professional judgment, our continued involvement in this engagement would be inappropriate due to a conflict of interest.

October 10, 2024

Documentation and Deliverable

The documentation we prepare pertaining to and in support of this engagement, along with any resulting work product, is your property and constitutes confidential information.

Any work product we prepare as a result of this engagement will be submitted directly to you.

If our documentation is subject to a protective order or confidentiality agreement, you agree to provide a copy of the same to us. We agree to abide by such restrictions we sign.

No (i) disclosure of our work product from this engagement or any portion, abstract, or summary thereof or (ii) reference to any opinions we may offer, shall be made orally or in writing (including without limitation by inclusion or reference in a discovery response, motion, or reply) without your prior written consent; except where compelled by a court or required to comply with a legal or regulatory obligation. To the extent disclosure of our work product is permitted, it shall only be made in the original, complete, and unaltered form provided by us with all restrictive legends and other agreements intact.

All documents provided by you that we do not need to retain in our files will be returned to you if requested in writing within ninety (90) days of completion of this engagement. We reserve the right to destroy the documents if there are no instructions from you within ninety (90) days of the completion of the engagement.

Incorporated General Terms

Attached are our General Terms that provide additional terms (including but not limited to provisions on confidentiality, limitations on liability, dispute resolution, jury waiver, etc.) for this engagement, limitations on liability, indemnifications, dispute resolution, jury waiver, etc.) for this engagement. Those terms are incorporated and apply to all services described herein.

We appreciate the opportunity to assist you and look forward to working with you and your team.

Sincerely,

Weaver and Tidwell, L.L.P.

WEAVER AND TIDWELL, L.L.P.

Please sign and return a copy of this letter.

By signing below, the signatory indicates your acknowledgment of, and agreement with, the arrangements for our engagement described herein, as well as authority to execute this agreement.

County of Erie

By: 

Printed Name: Jeremy Toth

Title: County Attorney

Date: 10-11-24

GENERAL TERMS

1. **Expenses.** In addition to the fee for our services, reasonable and necessary out-of-pocket expenses we incur (such as parking, reproduction and printing, postage and delivery, and out-of-market travel, meals, and accommodations) will be invoiced at cost. The total amount stated on each invoice will include a separate administrative and technology charge. The charge represents an estimated allocation of our support personnel, telecommunication, and technology infrastructure expenses. The amount stated on each invoice will also include any sales, use, gross receipts, excise, or other transaction tax imposed on our fees or expenses.

2. **Payment.** Any disagreement with the charges must be communicated to us in writing within thirty (30) days of the invoice date, after which any right to contest the invoices will be waived. For invoices not paid within sixty (60) days of the invoice date, a late charge will be added to any uncontested outstanding balance. The late charge will be assessed at a rate of half a percent (0.5%) of the unpaid balance per month. If invoices are not paid within ninety (90) days of the invoice date, this engagement (and any other engagements for the same party) will be placed on hold and we will stop work until the balance is brought current, or we may withdraw, and we will not be liable for any damages that may result.

3. **Term.**

A. This engagement ends at the earlier of the completion of our services described above, the provision of any deliverables described above, or the termination of this engagement. Any party may earlier terminate this engagement at any time with ten (10) days' written notice to the other party. If the engagement is terminated, our engagement will be deemed to have been completed upon written notification of termination, and we will be paid for our time expended and expenses incurred through the date of termination.

B. If we are requested to perform additional services not addressed in this engagement letter, we will communicate our ability to perform the services, the scope of additional services we agree to perform, and the fee arrangements we would use. We also may issue a separate engagement letter covering the additional services. In the absence of any other written communication from us documenting the arrangement for performance of such additional services, those services will continue to be governed by the terms of this engagement letter.

4. **Ethical Conflict Resolution.** In the unlikely event that circumstances occur which we in our sole discretion believe could create a conflict with either the ethical standards of

our firm or the ethical standards of our profession in continuing our engagement, we may suspend our services until a satisfactory resolution can be achieved or we may resign from the engagement. We will provide notice of such conflict as soon as practicable and discuss any possible means of resolving the conflict prior to suspending our services.

5. [Intentionally Omitted]

6. **Confidentiality.**

A. During the course of this engagement, the parties may disclose to each other, orally, in writing, or otherwise, information that is identified as or which is otherwise categorized by law as proprietary, confidential, or privileged ("Confidential Information"). Confidential Information does not include material which (i) is in the public domain through no fault of the receiving party, (ii) was already known to the receiving party before it was first disclosed to the receiving party by or on behalf of the disclosing party related to this engagement, (iii) is received by the receiving party from third-parties without confidentiality restrictions, unless those third-parties were acting for or on behalf of the disclosing party related to this engagement, or (iv) is developed by the receiving party independently of, and without reference to, any Confidential Information communicated to the receiving party by or on behalf of the disclosing party. We will use the Confidential Information disclosed to us during this engagement solely to perform services for which we have been engaged.

B. We may be requested to make the Confidential Information available to regulators and other government agencies, pursuant to authority given by law or regulation. Responding to many such requests is mandatory. In those cases, we will follow C below. Access to such Confidential Information thereafter will be provided under our supervision and we may, upon their request, provide the regulator or agency with copies of all or selected portions of the Confidential Information. The requesting party may intend or decide to distribute the copies or information contained therein to others, including other regulators or agencies.

C. Unless otherwise stated herein, prohibited by law or direction of law enforcement, or agreed in writing, the parties will (i) provide prompt notice of any request received to make Confidential Information pertaining to this engagement, including any of our work product, available to outside parties not involved in the performance of these services and (ii) obtain written consent from the affected party before disclosing the Confidential Information in response to the request. If consent is withheld, the parties

will cooperate with any lawful efforts taken to minimize the disclosure or protect the Confidential Information.

D. We will invoice for reasonable and necessary time and out-of-pocket expenses we incur to respond to any request (such as a subpoena, summons, court order, or administrative investigative demand) pertaining to this engagement in a legal matter to which we are not a party. Our time to facilitate the response will be charged at our then-current standard hourly rates, our expenses (including attorney's fees) will be invoiced at cost, and our administrative and technology charge will be applied. If we agree to perform additional substantive services related to or arising out of the request, such matters may be the subject of a new engagement letter.

E. The parties agree to maintain Confidential Information using the same standard of care each uses to protect its own information of like importance but in no case less than a reasonable standard of care.

F. All rights to Confidential Information (including patent, trademarks, copyrights, or other intellectual property rights) shall remain vested in the disclosing party, and no rights in the Confidential Information are vested in the receiving party, except the limited right to use the Confidential Information solely to perform its obligations or exercise its rights under this engagement letter.

G. We will return or destroy the Confidential Information upon the disclosing party's request within a reasonable period of time, except that we will maintain any copies of the Confidential Information for the period necessary to comply with any applicable laws or professional standards and our own document retention policy (e.g. we will maintain our workpapers for seven (7) years from the date of any attest report we issue). Following such a period, we may destroy the Confidential Information without notice.

H. We may at times provide documents marked as drafts. Those documents are for review purposes only and should not be relied upon. They should not be distributed and should be destroyed, unless otherwise required by law.

I. We may transmit and store data via email, the cloud, or other electronic and Internet-based mechanisms to facilitate this engagement. Please be aware that those mediums inherently pose a risk of misdirection or interception of Confidential Information. Any request to limit such transmissions or use a different means of transmission or storage must be made in writing and we will not be responsible for any resulting compromise in data security.

J. We do not act as the host or repository of financial or non-financial information or as an information back-up service provider for our clients. It is the responsibility of our

clients to maintain a complete set of their own financial and non-financial data and records. If some portion of the data and records is contained only within our files, inform us before the issuance of our deliverable and we will provide a copy.

K. Unless otherwise stated herein or agreed in writing, neither this engagement nor engagement letter is intended for the benefit of any third party. Any party may inform us of any third party who will receive our deliverable. If we are not informed in writing by a party, we are not aware of the identity of such third parties and we do not anticipate their reliance upon our professional services or deliverable unless otherwise agreed in writing.

7. Limitations on Liability.

A. Each party to this engagement letter other than us gives the following releases to us and our partners, employees, and contractors, and each of their heirs, executors, personal representatives, successors and assigns ("Our Representatives"). We and Our Representatives are hereby released from and against any liability and costs, including related liabilities, losses, damages, costs, expenses, and attorneys' fees, resulting from or arising out of: (i) knowing misrepresentations or unintentional or unauthorized disclosures to us or Our Representatives by any party (other than us) or their officers or employees (except those of the Erie County Clerk's Office), (ii) disclosure of our work product to anyone not a party this engagement letter who we were not informed of in advance, or (iii) misdirection, interception, or failed delivery of information connected with this engagement during transmission, submission, or storage.

B. Our and Our Representatives' total aggregate liability pertaining to this engagement and engagement letter shall be limited to one (1) times the amount of our fees (excluding any reimbursable expenses) the party bringing the claim paid to us for the services in question. In no event shall we or Our Representatives be liable for indirect, incidental, consequential, special, multiple, exemplary, or punitive losses or damages—even if advised of their possible existence.

C. Satisfaction of a claim or cause of action arising from nonattest services (if any) which are part of this engagement or performed pursuant to this engagement letter shall only be sought from the limited liability partnership, Weaver and Tidwell, L.L.P. In no event will our partners, directors, employees, or agents be individually liable for any liability, damages, expenses, or losses of any nature, caused by or resulting from the engagement, engagement letter, or use of our work product. While we are entering into this

engagement letter on our own behalf, this paragraph is also intended for the benefit of Our Representatives.

D. All limitations on liability contained herein shall apply to the fullest extent permissible by applicable laws and professional standards (including, without limitation, any applicable rules and interpretations of the AICPA, PCAOB, and SEC), regardless of the cause of action (whether contract, negligence, or otherwise), except as finally determined to have resulted solely from our fraud, gross negligence, or willful misconduct.

8. Dispute Resolution Procedure.

A. No claim arising out of or relating to this engagement or engagement letter shall be filed more than two (2) years after the earlier of the termination of this engagement or the date of the delivery of our work product in question, if any. This limitation applies and begins to run even if no damage or loss has been suffered, or the injured or damaged party has not become aware of the existence or possible existence of a dispute.

B. If a dispute arises out of or relates to this engagement or engagement letter, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation before resorting to litigation. In such event, the parties will attempt to agree upon a location, mediator, and mediation procedures.

C. This engagement letter and all disputes between the parties shall be governed by, resolved, and construed in accordance with the laws of the State of New York, without regard to conflict-of-law principles. Any action arising out of or relating to this engagement or engagement letter shall only be brought in, and each party agrees to submit and consent to the exclusive jurisdiction of the federal or state courts in the State of New York and convenience of those situated in Erie County, New York.

D. [Intentionally Omitted]

E. Whenever possible, this engagement letter shall be interpreted in such a manner as to be effective and valid under applicable laws, regulations, or published interpretation, but if any term of this engagement letter is declared illegal, unenforceable, or unconscionable, that term shall be severed or modified, and the remaining terms of the engagement letter shall remain in force. The court should in such case modify any term declared to be illegal, unenforceable, or unconscionable in a manner that will retain the intended term as closely as possible.

F. If because of a change in status or due to any other reason, any of the terms of this engagement or any contract we have now or enter into in the future with any of the other parties, would be prohibited by, or would impair our

independence when required under laws, regulations or published interpretations by governmental bodies, professional organizations or other regulatory agencies, such provision shall, to that extent, be of no further force and effect and the contract shall consist of the remaining portions.

9. Miscellaneous.

A. We have non-CPA owners who may provide services pertaining to this engagement.

B. We do not provide legal advice or services. If necessary, refer to appropriate legal counsel for advice or services of that nature.

C. This engagement letter sets forth all agreed upon terms and conditions of our engagement with respect to the matters covered herein and supersedes any that may have come before. This engagement letter may not be amended or modified except by further writing signed by all the parties. Any provisions of this engagement letter which expressly or by implication are intended to survive its termination or expiration will survive and continue to bind the parties. The use of electronic signatures or multiple counterparts to execute this engagement letter shall have the same force and effect as a manually or physically signed original instrument.