



# Town of East Greenbush

## Justice Court Operations

### Report of Examination

Period Covered:

January 1, 2014 — June 30, 2015

2016M-60



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

May 2016

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of East Greenbush, entitled Justice Court Operations. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*

# Introduction

## Background

The Town of East Greenbush (Town) is located in Rensselaer County and has a population of approximately 16,500. The Town is governed by an elected Town Board (Board) consisting of the Town Supervisor and four Board members. The Board is the legislative body responsible for managing Town operations, including establishing appropriate internal controls over financial operations and monitoring financial activities.

The Town's Justice Court (Court) has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before it. The Town has two elected Justices who oversee Court operations. The Justices' principal duties include adjudicating legal matters within the Court's jurisdiction; administering money collected from imposing fines, bail, surcharges, civil fees and restitutions; and reporting the Court's financial activities monthly to the Office of the State Comptroller's Justice Court Fund (JCF). Each Justice has a Court clerk and there is an employee that assists the Court clerks (clerks). The Justices' combined collections in 2014 totaled approximately \$598,000 for fines, fees and surcharges and \$42,000 for bail.

## Objective

The objective of our audit was to examine the Court's financial operations. Our audit addressed the following related question:

- Did the Justices ensure monthly bank reconciliations and analyses of Court liabilities for comparison with available cash were prepared?

## Scope and Methodology

We examined the Court's financial operations for the period January 1, 2014 through June 30, 2015.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

## Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Town officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials

generally agreed with our recommendations and have initiated, or indicated they planned to initiate, corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Clerk's office.

## Justice Court Operations

The Justices are responsible for adjudicating cases brought before them and accounting for and reporting the Court's financial activities. The Justices must report Court transactions to the JCF in a timely manner. They are also responsible for implementing effective internal controls to oversee operations and ensure that the appointed clerks maintain complete and accurate accounting records on their behalf and safeguard all moneys collected. Essential procedures include the monthly reconciliation of bank accounts to Court records and a monthly accountability which compares cash on hand and on deposit to detailed lists of amounts due to the JCF and other outstanding liabilities, such as bail. The Justices should provide adequate oversight of the clerks' work to ensure Court moneys are adequately safeguarded, accounted for and reported. In addition, the Justices are required by law to present their records and docket at least once per year to be examined by the Town Comptroller or a certified public accountant.

The Justices do not provide adequate oversight of Court operations to ensure that Court moneys are accounted for accurately. Court personnel did not complete monthly bank reconciliations and accountabilities. Additionally, an annual audit of the Justices' books and records was not performed for 2014. If these procedures had been performed, Town officials may have identified and corrected the overage in Justice Engel's accounts that totaled \$4,370 and the shortage in Justice Donnelly's accounts that totaled \$190 as of June 30, 2015. Contributing factors included errors related to credit card receipts, electronic payment receipts and withdrawals.

### Justice Oversight

Justices are personally accountable for all activities that occur in their Court. The Justices must ensure that effective internal controls are in place to provide reasonable assurance that cash and other resources are properly safeguarded and that financial transactions are properly processed and recorded in a timely manner. When Justices utilize clerks to process Court collections and maintain Court records, it is essential that the Justices provide oversight over the clerks' functions, including routinely reviewing Court records, such as bank reconciliations and monthly accountability analyses, bank statements and the Court's accounting system activity.

Justices are required to account for cash receipts and disbursements from month to month and to determine accountability, by preparing a list of Court liabilities and comparing it with cash in the bank accounts and on hand, on a monthly basis. Bank reconciliations and

accountability analyses document the status of moneys held by the Court at any point in time and provide a means of verifying that the Court is properly addressing its custodial responsibilities.

Court personnel did not perform bank reconciliations and accountabilities for Justice Engel during our audit period or for Justice Donnelly from June 2014 through June 2015.<sup>1</sup> We performed bank reconciliations and accountabilities for the audit period to determine if the balances in the Justices’ accounting records agreed to the amount on deposit in the Justices’ bank account. Figure 1 shows the accountability for each Justice.

**Figure 1: Accountabilities as of June 30, 2015**

	Justice Engel	Justice Donnelly
Balance per Bank Statement June 30, 2015	\$34,116	\$31,956
Add: Deposits in Transit	\$756	\$335
Less: Outstanding Checks	\$500	\$35
Adjusted Bank Balance	\$34,372	\$32,256
June 2015 Receipts <sup>a</sup>	\$24,752	\$25,040
Outstanding Bail as of June 30, 2015	\$5,250	\$7,406
Total Justice Liabilities	\$30,002	\$32,446
Overage/(Shortage) as of June 30, 2015	\$4,370	(\$190)

<sup>a</sup> The receipts agreed to the June monthly report to the JCF and were remitted to the Town Comptroller in July 2015.

Justice Engel’s Overage – Justice Engel had an overage of \$3,091 at the beginning of our audit period, which increased by \$1,279 during our audit period to \$4,370. According to Court personnel, the overage at the beginning of our period consisted of fines and fees that were paid with credit cards that were not reported on any monthly reports to the JCF due to the Court’s inability to identify the particular cases and defendants the credit card payments were related to. Court personnel were not able to identify the sources of the payments due to a lack of reconciliation between the amounts collected to the closing out of the corresponding cases.

The increase to the overage during our audit period was also related to payments made by credit cards and the related wire deposits made to the Justice’s bank account.

<sup>1</sup> Reconciliations and accountabilities were completed up until June 2014. In June 2014, the Clerk was unable to get Justice Donnelly’s account to reconcile and discontinued preparing the monthly bank reconciliations and accountabilities.

- In December 2014, there were three deposits from the electronic payment service for credit card payments totaling \$593 that were not recorded as collections in the accounting system or included on the December or subsequent monthly reports to the JCF. We were able to identify the related cases for two of the deposits totaling \$300 but were not able to identify the related cases for the other deposits totaling \$293 because the deposits did not appear on the December 2014 report from the electronic payment service and the Court personnel did not apply the payments to outstanding cases.
- In January 2015, there was a \$150 deposit from the electronic payment service for which we could not identify a related collection in the accounting records or a case the payment was related to. This amount was also not included on the Justice's monthly reports to the JCF.
- In June 2015, there were two deposits from the electronic payment service totaling \$536 that were not reported on the monthly JCF report until July. These fines were deposited into Justice Engel's account but not included in the accounting records and monthly report until July, which added to the overage as of June 30, 2015.

Court personnel stated there were timing differences between when the payments were made through the online payment software or credit card service and when the payments were deposited into the Justice's bank account. The lack of timely reconciliations contributed to the transactions not being recorded in the proper month.

Justice Donnelly's Shortage – At the beginning of the audit period, Justice Donnelly's reconciled bank balance agreed with the cash balance in the accounting records and the Justice's liabilities. However, there was a shortage of \$190 as of June 30, 2015 due to the following.

- In March 2014, reports from the electronic payment service showed a fine and fee of \$240 as being paid; however, this amount was never deposited into Justice Donnelly's bank account. When Court personnel downloaded the monthly report from the electronic payment service, the case was noted as paid and closed out in the accounting records. As of June 30, 2015, this case should still be open.
- In September 2014, a \$70 credit card payment was received but the payment was never recorded into the accounting system.

- In January 2015, a \$20 bank charge was electronically withdrawn from the Justice's bank account and the Court personnel did not record the charge in the records.

The net effect of these three transactions was the shortage in Justice Donnelly's account totaling \$190.

If the Justices ensured that monthly bank reconciliations were performed and monthly accountabilities were completed, the errors and irregularities identified during our audit would have been identified and corrected instead of remaining undetected for several months or years.

## **Annual Audit**

The Justices are required by law to present their records and docket at least once per year to be examined by the Board or by a certified public accountant (CPA). In towns that have a Town Comptroller, as is the case with East Greenbush, the annual audit responsibility rests with the Comptroller. In conducting the reviews, it is important for the Comptroller to determine whether there are effective procedures to ensure that the Court's financial transactions are properly recorded and reported and that all moneys are accounted for properly.

The Comptroller has not conducted an audit for the Court records for 2014 nor has the Board contracted with a CPA to perform an audit of the Court records. The Town hired a CPA firm to complete audits of the Court records in prior years but did not hire a CPA to perform an audit for 2014. Town officials could not provide a reasonable explanation why there was no audit of the Court's records conducted. With an effective annual audit of the Court's records, Town officials may have identified and corrected the irregularities identified during our audit in a timely manner.

## **Recommendations**

1. The Justices should ensure monthly bank reconciliations and analyses of Court liabilities for comparison with available cash are prepared and reviewed. Any differences should be promptly identified and investigated and, if necessary, corrective action taken.
2. Justice Engel should report and send the amount of the overage to the JCF.
3. The Board should provide adequate management oversight of the Court's operations, including having the Town Comptroller or a CPA perform an effective annual audit of the Justices' records.

**APPENDIX A**  
**RESPONSE FROM LOCAL OFFICIALS**

The local officials' response to this audit can be found on the following pages.



# The Town of East Greenbush

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Unit Name: Town Of East Greenbush Justice Court Operation  
Audit Report Title: Report Examination Period Covered: January 1, 2014 – June 30, 2015  
Audit Report Number: 2016M -60

The Town accepts and agrees with the recommendations contained in Audit Report Number 2016M-60. We have already taken steps to comply with the recommendations and hereby submit our response and corrective action plan. Below we list the corrective actions taken or proposed for each recommendation included in the report. For recommendations where corrective action has not been taken or proposed, we have included an explanation.

### **Audit Recommendation:**

*1. The Justices should ensure monthly bank reconciliations and analyses of Court liabilities for comparison with available cash are prepared and reviewed. Any differences should be promptly identified and investigated, and, if necessary, corrective action taken.*

Monthly bank reconciliations and analyses of Court liabilities have been made a priority by the Justices. A person has been retained in the Justice Court Department to reconcile monthly bank statements with Court records. In addition, the Supervisor will assign an independent bookkeeper to review Court records on a monthly basis to ensure accurate reconciliation and identify any systematic issues that may arise.

2. Justice Engel should report and send the amount of the overage to the Justice Court Fund (JCF).

Since the problems in Justice Engel's account began with fines and fees that were paid with credit cards that were not reported on any monthly reports to the JCF, a report of credit card details has been secured and individual charges are being tracked by case numbers. Discrepancies are being researched and reconciled and corrections made. A full report of the results of this effort will be made to the Town Supervisor and Town Comptroller by the end of May 2016. Charges that cannot be traced will be listed on the monthly Justice Court report as unidentified revenue with the June 2016 reporting. Moving forward, we will assure that fines and fees paid with credit cards and online are reconciled on the corresponding monthly statement.

3. The Board should provide adequate management oversight of the Court's operations, including having the Town Comptroller or a CPA perform an effective annual audit of the Justices' records.

The Town Board has directed the Town Comptroller to conduct an audit of the Court records for 2014 and 2015. We anticipate completing the 2014 audit by August 2016 and the 2015 audit by December 2016. Moving forward, the Board will require the Court records to be audited on an annual basis by the Town Comptroller and an independent audit to be conducted periodically, but not less than every three years.

Please feel to contact me with any questions or comments. Thank you for the efforts of your staff in conducting this audit.

Signed:

 \_\_\_\_\_  
John J. Conway, Town Supervisor

4/28/16  
Date

Cc: Town Board  
Town Justices  
Town Comptroller  
Town Clerk

## **APPENDIX B**

### **AUDIT METHODOLOGY AND STANDARDS**

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We interviewed Court personnel to gain an understanding of the Court's operation.
- We determined whether Court personnel properly performed bank reconciliations and monthly accountabilities. We performed bank reconciliations and monthly accountabilities for the audit period.
- We compared monthly amounts recorded in the Justices' accounting records to the amounts deposited and disbursed at the bank, as well as the amounts reported to the JCF as documented within the monthly reports for our audit period.
- We reviewed a current list of bail and determined the accuracy of the report. We then reviewed bail activity reports to determine outstanding bail at the end of each month of the audit period.
- We reviewed the Board minutes and supporting documentation regarding an annual audit of the Justice Court.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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