



Town of Alexander

Internal Controls Over Justice Court Operations

Report of Examination

Period Covered:

January 1, 2012 — June 12, 2013

2013M-195



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

October 2013

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 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 Alexander, entitled Internal Controls Over 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 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 Alexander (Town) is located in Genesee County and has a population of about 2,500. The Town Supervisor (Supervisor) serves as the Town's chief executive officer. The Town Board (Board), comprised of the Supervisor and four council members, is the legislative body responsible for managing Town operations. The Board has the overall responsibility for overseeing the financial activities of the Town, including the financial activity of the Justice Court (Court).

Town Justices are responsible for adjudicating all cases brought before their courts and properly accounting for and reporting all related financial activity. Justices are required to report monthly to the Office of the State Comptroller's Justice Court Fund (JCF) on the financial activities of the preceding month. The Town operates its Court with two Justices — Justice Edwyn Hise has presided since 1998 and Justice James Orr has presided since 2011. Each Justice has a Court clerk (clerk) to assist with Court activity.

Objective

The objective of our audit was to review the Town's internal controls over Court operations and address the following related question:

- Are internal controls over Court operations appropriately designed and operating effectively to allow for the proper accounting of financial activity?

Scope and Methodology

We examined Court operations for the period January 1, 2012,¹ through June 12, 2013.

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.

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 indicated they have taken, or plan to initiate corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and

¹ Due to the shortage identified with Justice Hise's accountability analysis, we extended our testing back to 2011 in certain instances.

recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the 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 Town Clerk's office.

Internal Controls Over Justice Court Operations

Justices are responsible for adjudicating cases brought before their Court, and accounting for and reporting Court-related financial activities. The Justices must ensure that an effective system of internal controls is in place for safeguarding cash, processing financial transactions in a timely manner, and maintaining complete and accurate accounting records. Justices are responsible for depositing all moneys collected intact² and in a timely manner,³ issuing appropriate receipts, reconciling Court collections to corresponding liabilities, and reporting Court transactions to the JCF and traffic ticket dispositions to the New York State Department of Motor Vehicles (DMV).

The Board should perform required annual audits of the Justices' records or engage the services of an independent public accountant to perform the audits. The Board and Justices are responsible for assessing risk within the Court's financial operations and developing, implementing and monitoring compensating controls to mitigate such risks.

Neither Justice performs a monthly accountability analysis, issues appropriate duplicate receipts, or properly reports pending and disposed cases to DMV. Our review of Justice Hise's records disclosed a \$721 shortage in his account as of April 23, 2013. Also, Justice Hise did not deposit money in a timely manner, file accurate monthly reports, maintain an accurate listing of bail, or maintain a reliable cash receipts record. Our review of Justice Orr's records disclosed minor deficiencies.

We also found internal control weaknesses with the Court's recordkeeping software, which raises significant concern regarding the integrity of the Court's data. In addition, there was no indication that the Board conducted, or retained anyone to conduct, the required annual audit of the Justices' records.

Accountability Analysis

Justices are required to appropriately account for cash receipts and disbursements, and determine accountability — by preparing a list of Court liabilities and comparing it with reconciled bank balances — on a monthly basis. Bail for pending cases is similar to a customer deposit, posted by defendants (or by others on their behalf) to guarantee their appearance in Court to answer charges, after which bail is returned. Consequently, it is essential that justices maintain an accurate accounting of bail. A justice is personally responsible for

² That is, in the same form (cash or check) and amount as received and recorded.

³ Within 72 hours of receipt, excluding Sundays and holidays

moneys received by the Court and may be liable for money paid to the Court that was lost or stolen.

Each Justice maintained a single bank account for bail, fines, and fees and used a software program to track cases, issue receipts, and prepare reports for submittal to the JCF. They both used the software program and a manual checkbook to record deposits and disbursements, and compared the running balance in the checkbook to the monthly bank statement to verify that balances agreed. However, neither Justice performed an accountability analysis on a monthly basis. Therefore, we performed a cash count and an accountability analysis as of April 25, 2013.

Justice Hise: Court liabilities exceeded Court assets by \$721 as shown in Table 1:

Table 1: Justice Hise Accountability Analysis	
Assets as of April 23, 2013	Amount
- Bank account balance	\$3,832
- Cash on hand (from cash count)	\$0
- Overpayment to JCF	\$100
- Due from Justice Orr	\$245
Total Assets	\$4,177
Known Liabilities as of April 23, 2013	
-Fines and fees due to JCF (April 1 to April 23, 2013 receipts)	\$1,825
-Fine and fees deposited but not reported or remitted to JCF	\$605
-Receipts issued for more than amount reported to JCF	\$70
-Pending bail as recorded by Justice	\$1,790
-Pending bail - Recorded then deleted two months later	\$500
-Receipts reported to JCF but not remitted to Supervisor	\$108
Total Known Liabilities	\$4,898
Cash Shortage	(\$721)

- Justice Hise’s cash receipt entries did not correspond with amounts deposited in the bank. We obtained from the bank the composition of 10 deposits from 2012 totaling \$5,760. Five of the deposits, totaling \$1,250, did not agree with Justice Hise’s cash receipt records.⁴ Four deposits included checks

⁴ We also reviewed all 71 deposits from 2011 (excluding credit card deposits) totaling \$30,100 and noted only minor exceptions.

and money orders, totaling \$1,105⁵ were not included in the Justice's cash receipts records and were not reported to the JCF. We found that the bail (\$500) was initially recorded and deposited in May 2012, but was deleted in July 2012, even though the bail remained pending as of April 23, 2013.

- In September 2012, the Justice received and deposited a fine of \$160. Although it was properly recorded in his receipt book, only \$90 (\$70 less) was remitted to JCF.
- The Justice remitted a check for \$108 less than the amount due to JCF as indicated on his May 2011 monthly report. He showed us his checkbook, which contained a note that he had identified the error. However, he did not remit this amount until May 2013, after we brought it to his attention.
- We reviewed all 200 entries from the cash receipts journal for 2012 and could not identify when five fines, totaling \$645, were deposited with the bank. While these fines may have been paid in cash, these receipts were not included in the deposits we reviewed. We also identified 11 fines that were not deposited in a timely manner. They ranged from one to 23 days late. Furthermore, during fieldwork a defendant came to the Court to make an additional payment on the fine owed. The clerk found a \$150 money order in the defendant's case file, which Justice Hise indicated was not deposited due to an oversight.

Justice Hise could not provide an explanation for the cash shortage. He stated that he deposits all moneys as received by his Court. The identified variances could have been detected and corrected if monthly accountability analyses had been performed.

⁵ Seven checks and money orders totaling \$605 for fines and a bail payment of \$500

Justice Orr: Court assets exceeded liabilities by \$20, as shown in Table 2:

Table 2: Justice Orr Accountability Analysis	
Assets as of April 25, 2013	Amount
-Bank account balance	\$1,940
-Cash on hand (from cash count)	\$75
Total Assets	\$2,015
Known Liabilities as of April 25, 2013	
-Fines and fees due to JCF (April 1 to April 25, 2013 receipts)	\$1,745
-Outstanding checks	\$5
-Due to Justice Hise – Fine payable	\$245
Total Known Liabilities	\$1,995
Cash Overage	\$20

Two credit card payments collected by Justice Hise, totaling \$245, were erroneously deposited into Justice Orr’s bank account during February 2012. Had either of the Justices performed a monthly accountability analysis, this error would have been identified in the month it occurred.

Duplicate Receipts

Whenever the Court receives moneys, a two-part receipt should be prepared immediately, one part retained by the Court and one part given to the person making the payment. Duplicate receipts must be pre-numbered, issued consecutively, and document the date, the person paying, the amount paid, the form of payment (cash, money order, or check), and the purpose. Each receipt should be signed by the person issuing it to establish accountability. Amounts collected should be promptly recorded in the cash receipts journal. If a computerized system generates receipts, the software controls must prevent the alteration of receipt numbers. If the system cannot be controlled and a user has the ability to alter a receipt, then the Court should use pre-numbered receipts.

Both Justices and clerks used⁶ a computerized software program to generate sequentially numbered receipts to evidence payments made to the Court. However, the Justices and clerks have the ability to override any of the assigned receipt numbers. The ability to override receipt numbers significantly increases the risk that money could be lost or stolen. Justice Orr generally had computerized receipts

⁶ During April 2013, the Court started using manual pre-numbered duplicate receipts.

on file with other Court documentation. Justice Hise⁷ did not have computerized receipts on file and needed to print copies for our audit purposes. A review of the receipts for both Justices did not include the signature of either the Justices or the clerks, all of whom had the ability to print these receipts. Furthermore, the receipt did not indicate the form of payment.

Additionally, Justice Hise issued computerized receipts out of order, resulting in gaps in the sequence of receipt numbers. For example, during May 2011 the cashbook report showed that the Justice issued receipt number 1476 through 1490. However, also included was a receipt number 1238. We also identified 31 receipt numbers that were unaccounted for in Justice Hise's records.

Pending and Disposed Cases

Justices should periodically update and reconcile DMV reports (pending and disposed tickets) with current caseload activity. The DMV's pending-ticket log dated March 2013 contained 1,856 pending tickets for the Court. The tickets on this report included violations from as far back as 1985. Only 297 (16 percent) of these tickets had been scofflawed⁸ by the Court.

The Court did not always update the DMV database when a case was disposed. We randomly selected 15 pending tickets from the log to determine their status. Court files showed that 11⁹ of the 15 tickets were either dismissed, a fine was paid, or the case was transferred to another Court. For example, one case history report showed that a fine and surcharge totaling \$835 was paid and the case was closed in March 2012. However, as of March 2013, more than a year later, the case was still included on DMV's pending case report. The Justices indicated that they perform a reconciliation of DMV tickets with their cases. However, an adequate reconciliation of the DMV pending tickets report would have identified these cases as closed.

We also identified three disposed cases where the Justices had assessed fines totaling \$2,815. A review of the DMV reports showed that the Justices reported these cases as disposed to DMV. However, the cashbook records indicate that the defendants had paid only \$600 as of May 31, 2013. Both Justices indicated that this was the result of a reporting error and the additional \$2,215 remains due to the Court.

⁷ For Justice Hise's records, we extended our testing back to January 1, 2011.

⁸ The Court may "scofflaw" drivers who have not answered to the Court regarding a traffic violation. The DMV will not allow those drivers to renew their license until they answer to the Court.

⁹ The Court handled four of the fifteen tickets properly. Two were scofflawed by the court, one was too recent to scofflaw and one was for a parking violation where the Court sent a fine notice to the defendant.

Because the Justices do not adequately reconcile DMV reports with current Court caseload activity, many unpaid fines and fees have not been enforced in a timely manner.

Annual Audit

Every town justice is required to present his/her records and dockets at least once each year to be examined by the Board, or by an independent public accountant. In conducting the review, it is important for the Board to determine whether the Court has effective procedures to ensure financial transactions are properly recorded and reported, and that all moneys are accounted for properly. This is especially important since Justices have the ability to perform multiple tasks, including accepting payments, opening mail, issuing receipts, recording transactions, and making deposits.

The minutes indicate that the Board members reviewed the annual report for the Court. However, there was no indication that an audit was conducted for a specific time period, the extent of the work reviewed, or if any exceptions existed. Town officials could not, for example, supply any other evidence of an audit, such as a checklist of audit tests performed or the specific records that were reviewed.

Without an effective audit of the Court's records, including available cash, bail, and monthly accountabilities, the Town cannot provide assurance that all moneys are properly accounted for. To assist with this responsibility, our office has issued a publication entitled the *Handbook for Town and Village Justices and Court Clerks*. The publication contains sample schedules and questionnaires to assist in completing this annual audit. Had the Board used this guidance when conducting the required annual audit, the deficiencies identified during our audit may have been identified sooner and prompt corrective action could have been taken.

Financial and Case Management Software

Financial and case management software should produce complete and accurate records and reports. Once information is entered into the system, its integrity should be maintained through controls that limit access and changes to the data. Effective software should provide a means to determine the identity of users who access the software and what transactions were processed by those users. The software must also prevent users from making retroactive changes to the system to ensure that all transactions are reflected as of the date they were recorded in the system and are free from alteration.

One effective software control is the use of user accounts and passwords. Each user should have their own user account and password to provide accountability within the system so related activities can be traced to specific individuals. Passwords are one of the most basic controls that can be used to mitigate the risk of

unauthorized users obtaining access to the entity's computer system. If users share passwords, then accountability is lost.

Our audit disclosed weaknesses in the Court's use of the software that raise significant questions about the integrity of the Court's data. User passwords are not adequately protected and anyone with access can change or delete data after it has been entered, with no clear record of who made the change or deletion. Justice Hise and Justice Orr both indicated to us that each Justice has a different user name and password, but they know each other's passwords and therefore can gain access into the other Justice's account. Justice Orr also indicated that his clerk is aware of his password and that he has not changed his password in over 1½ years.

Consequently, the Justices and the clerks have the ability to add, delete, or modify entries without an audit trail to identify who made the change. An individual can log in as another user and the system will associate the activity with the other user's login identity. This weakness eliminates any accountability for transactions entered or subsequently altered in the system since the transaction cannot be traced back to a single user.

Easily changed or deleted entries increase the possibility that the electronic data may not be reliable. Without reliable data, accountability cannot be effectively established and moneys are at risk of loss.

Recommendations

1. The Justices should maintain an accurate, up-to-date cash receipts record and an accounting for bail, as well as prepare bank reconciliations and accountability analyses on a monthly basis.
2. The Justices should ensure that all moneys are deposited intact, in a timely manner.
3. The Justices should submit accurate monthly reports to the JCF and the proper amount of moneys received by the Court should be remitted to the Town Supervisor.
4. The Justices should ensure that signed receipts are issued for all moneys collected. All receipts should be pre-numbered, issued in consecutive order, and include the amount received, from whom, for what reason, and in what form paid.
5. The Justices should periodically review and reconcile DMV's pending ticket log with caseload activity to ensure that tickets are properly reported as paid or enforced in a timely manner.

6. The Justices should contact the Office of Court Administration regarding the significant number of pending tickets to determine whether the oldest ones are still enforceable or should be dismissed.
7. The Board should perform a thorough audit of the Court records on an annual basis. Evidence of an audit indicating the tests performed, the records reviewed and the results of the audit should be retained and noted in the Board minutes.
8. The Board and Justices should assess the risk areas in the Court software (such as the ability to change records of receipt numbers) and develop compensating controls to mitigate these risks.
9. The Justices should require that unique user names and passwords are used, that passwords are periodically changed, and that users do not share passwords.

APPENDIX A

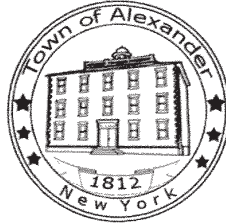
RESPONSE FROM LOCAL OFFICIALS

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

TOWN OF ALEXANDER

Supervisor
Joseph Higley

Councilmen
William Hirsch
William Schmieder
Roy Haller, III
David Miller



Highway Superintendent
Tom Lowe

Town Clerk
Laura Schmieder

27 September 2013

Regional Office of the State Comptroller
Robert Meller, Chief Examiner
295 Main Street, Suite 1032
Buffalo, New York 14203-2510

Dear Mr. Meller,

This letter is in response to the recent audit of the Town of Alexander Justice activities performed by your office. The Town accepts the audit draft as presented. Attached are some records of Judge Hise's cases. A further review of these records and supporting documentation may resolve some of the concerns found during the audit.

Though some of the recommendations for correction action were started as [REDACTED] made the suggestions, the Town will continue formulating a complete Corrective Action Plan and present that to your office in a timely manner. Thank you for this opportunity to identify and correct problems within our Town government.

Sincerely,

Joseph M. Higley
Supervisor
585-343-7525
jhigley@townofalexander.com

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APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard Town assets. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: Court operations, Town Clerk operations, tax collection operations, Supervisor's records and reports, claims processing and procurement, cash receipts and disbursements, and payroll.

During the initial assessment, we interviewed appropriate Town officials, performed tests of transactions, and reviewed pertinent documents, such as Town policies, Board minutes, and financial records and reports. After reviewing the information gathered during our initial assessment, we determined where weaknesses existed, and evaluated those weaknesses for the risk of potential fraud, theft and/or professional misconduct. We then decided on the reported objective and scope by selecting for audit the area most at risk. We selected internal controls over Court operations.

To accomplish the objective of the audit and obtain valid audit evidence, our procedures included the following steps:

- We interviewed Town officials to determine if policies and procedures were in place for Court operations, including an annual audit, Board oversight, and controls surrounding the Court's financial and case management software.
- We examined the Justices' accounting records, bank statements, canceled check images, monthly reports to the JCF, tickets, case history reports, DMV pending and disposed ticket logs, bank deposit compositions, case files, and duplicate receipts.
- We counted Justice Hise's undeposited cash receipts as of April 23, 2013, and performed an accountability analysis to determine whether total available cash (on-hand and in the bank) was sufficient to cover his Court liabilities.
- We counted Justice Orr's undeposited cash receipts as of April 25, 2013, and performed an accountability analysis to determine whether total available cash (on-hand and in the bank) was sufficient to cover his Court liabilities.
- We obtained information from the Genesee County Sheriff's Department pertaining to bail transfers to the Court. We reviewed manual case folders, disbursement records, electronic case data, and correspondence to determine if the Court was holding bail identified by the Sheriff's Department.
- We compared bank compositions with the cash receipts records on a sample basis. Due to the shortage in Justice Hise's account, we extended the scope of our testing to 2011.
- We traced cash receipt journal entries to bank deposits to determine if receipts were deposited timely and intact.

- We compared the monthly report totals with accounting records.
- For Justice Orr, we compared duplicate receipts with his accounting records.
- We examined deletions from the Court's records.
- We requested a backup of the data in the financial and case management software. We observed Justice Hise backing up this data. Using this backup, we were able to extract raw data and analyze this information using computer-assisted techniques.
- We compared the Court's electronic records to data we obtained from the DMV and the JCF. We reviewed case files and inquired about three cases that were disposed of, where the entire fine and fee was not recorded in the cash receipts record.
- We inquired with the Justices about DMV's pending ticket log and about a reconciliation of that list. We also inquired with the Justices regarding the status and enforcement of selected pending cases.
- We reviewed bail records by comparing the names of the individuals paying the bail (per the case file information) to the names of individuals on canceled checks. For cases where a receipt did not exist, we used deposit information obtained from the bank to help determine the source of moneys received.
- We reviewed disbursements to ascertain whether all were made by check and were for proper purposes.
- We reviewed the receipts and the cash receipts journal from January 2012 to March 2013¹⁰ to determine if receipts were issued in sequence, properly accounted for, indicated a signature of the person issuing the receipt, and the form of payment received. We also evaluated the controls over the issuance of computerized receipts.

We conducted this performance audit in accordance with generally accepted government auditing standards (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.

¹⁰ For Justice Hise, we extended our testing to January 2011.

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AND SCHOOL ACCOUNTABILITY

Andrew A. SanFilippo, Executive Deputy Comptroller
Nathalie N. Carey, Assistant Comptroller

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