



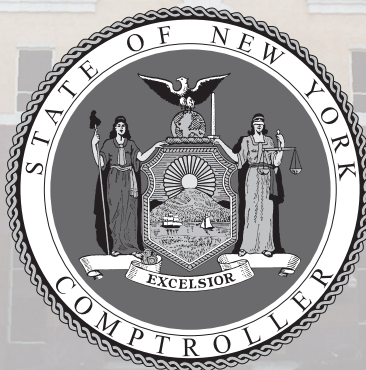
# Town of Bombay Justice Court Operations

## Report of Examination

Period Covered:

January 1, 2014 — May 31, 2015

2015M-208



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

June 2017

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 Bombay, 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*



## State of New York Office of the State Comptroller

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### EXECUTIVE SUMMARY

The Town of Bombay is located in Franklin County and has a population of 1,360 residents. The Town is governed by an elected five-member Town Board (Board), composed of the Town Supervisor (Supervisor) and four council members. The Board is responsible for the general oversight of the Town's operations and finances. The Supervisor is the chief executive officer and the chief financial officer of the Town.

The Town provides various services to its residents including maintaining and improving Town roads, snow removal, public improvements, recreation and cultural activities, and general government support. The Town's budgeted appropriations for the 2015 fiscal year were approximately \$640,000, funded primarily with real property taxes.

The Town's Justice Court (Court) has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before the Court. Justices are required to report monthly to the Office of the State Comptroller's Justice Court Fund (JCF) the financial activities of the preceding month. The Town has two elected Justices, Justice Curtis Smith<sup>1</sup> and Justice Terrance Durant,<sup>2</sup> who currently preside over the Court. The Town also employed two Court clerks (clerks) during our audit period to assist with the financial responsibilities related to Court operations. The Justices reported \$84,726<sup>3</sup> in fines, fees and surcharges to the JCF in 2014.

#### **Scope and Objective**

The objective of our audit was to review the Town's internal controls over the Court's financial operations for the period January 1, 2014 through May 31, 2015. We expanded our audit scope period back to October 2010 to review documentation of outstanding bail for each Justice; back to August 2012 to review a deposit made into Justice Smith's bail bank account; and back to September 2013 to review monthly reports to the JCF for Justice Durant. Our audit addressed the following related question:

- Are there adequate internal controls over the Court's financial operations to ensure financial activity is properly accounted for and reported, and collections are deposited and remitted in a timely manner and intact?

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<sup>1</sup> Justice Smith's current term is from January 1, 2015 to December 31, 2018.

<sup>2</sup> Justice Durant's current term is from January 1, 2014 to December 31, 2017.

<sup>3</sup> Justice Smith reported collections totaling \$44,515 and Justice Durant reported collections totaling \$40,211.

## **Audit Results**

We identified significant internal control weaknesses in the Court's financial operations. The Justices did not provide adequate oversight of the clerks responsible for receiving, recording and reporting cash receipts, and did not compare manual cash receipt records to the bank deposits prepared for them. As a result, as of May 31, 2015, a total of \$5,681 in documented collections received during the audit period had not been deposited into a Court bank account. Further, the Court did not report collections totaling \$5,999 to the JCF. We also found that some collections were deposited up to 14 days beyond the required 72 hours, and the manual receipts issued did not indicate the composition of each payment. These practices enabled Court funds to be lost, misused or stolen without detection.

In addition, accurate and complete bail records were not maintained and bank reconciliations and accountability analyses were not performed for any of the four Court bank accounts. As a result, the Justices and clerks were unaware that, as of May 31, 2015, Justice Smith's fine and fee account had a cash shortage of \$3,250 and his bail account had an unidentified balance of \$152, and Justice Durant's fine and fee account had a cash shortage of \$3,060 and his bail account had an additional cash shortage of \$250. Further, Justice Smith was carrying \$83,602 in his bail account that was not related to bail or any other Court operation, which we found was erroneously wired into the Justice's bank account from the Town's general fund in August 2012. As of May 31, 2015, these funds had not been transferred back to the general fund. The Town Supervisor stated that the \$83,602 was revenue related to the Town's casino compact and that she made the transfer by accident.

The Justices also did not establish policies and procedures for enforcing unresolved traffic tickets, and did not compare pending-ticket reports from the DMV to their caseload activity. As a result, the Town can lose potential revenue. Finally, because the Board did not audit the Justices' records as required, it had no assurance that all moneys collected were properly recorded and accounted for. Such an audit, combined with routine bank reconciliations and better oversight of the Court's financial activity, could have helped identify the missing funds and other deficiencies found during our examination.

## **Comments of Local Officials**

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix B, have been considered in preparing this report. Town officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

# Introduction

## Background

The Town of Bombay is located in Franklin County and has a population of 1,360 residents. The Town is governed by an elected five-member Town Board (Board), composed of the Town Supervisor (Supervisor) and four council members. The Board is responsible for the general oversight of the Town's operations and finances. The Supervisor is the chief executive officer and the chief financial officer of the Town.

The Town provides various services to its residents including maintaining and improving Town roads, snow removal, public improvements, recreation and cultural activities, and general government support. The Town's budgeted appropriations for the 2015 fiscal year were approximately \$640,000, funded primarily with real property taxes.

The Town's Justice Court (Court) has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before the Court. A justice's principal duties involve adjudicating legal matters within the Court's jurisdiction and administering moneys from fines, bails, surcharges and civil fees. Justices are required to report monthly to the Office of the State Comptroller's Justice Court Fund (JCF) the financial activities of the preceding month.

The Town has two elected Justices, Justice Curtis Smith<sup>4</sup> and Justice Terrance Durant,<sup>5</sup> who currently preside over the Court. The Town also employed two Court clerks (clerks) during our audit period to assist with the financial responsibilities related to Court operations. The Justices reported \$84,726<sup>6</sup> in fines, fees and surcharges to the JCF in 2014 that was distributed among New York State, Franklin County and the Town.

## Objective

The objective of our audit was to review the Town's internal controls over the Court's financial operations. Our audit addressed the following related question:

- Are there adequate internal controls over the Court's financial operations to ensure financial activity is properly accounted for and reported, and collections are deposited and remitted in a timely manner and intact?

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<sup>4</sup> Justice Smith's current term is from January 1, 2015 to December 31, 2018.

<sup>5</sup> Justice Durant's current term is from January 1, 2014 to December 31, 2017.

<sup>6</sup> Justice Smith reported collections totaling \$44,515 and Justice Durant reported collections totaling \$40,211.

**Scope and Methodology**

We examined the internal controls over Court operations for the period January 1, 2014 through May 31, 2015. We expanded our audit scope period back to October 2010 to review documentation of outstanding bail for each Justice; back to August 2012 to review a deposit made into Justice Smith’s bail bank account; and back to September 2013 to review monthly reports to the JCF for Justice Durant.

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 C 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 B, have been considered in preparing this report. Town officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

The Justices and Board have 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 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.

## Justice Court Operations

Justices are responsible for adjudicating all cases brought before their Court and establishing internal controls to safeguard cash received by the Court and ensure that Court activity is properly recorded and reported. To accomplish this, Justices must maintain complete and accurate accounting records and deposit and disburse cash in a timely manner. They must also perform monthly bank reconciliations and accountability analyses, report all Court transactions to the JCF and the New York State Department of Motor Vehicles (DMV), when applicable, and provide adequate oversight of the work performed by their clerks. The Justices are also responsible for enforcing unresolved traffic tickets and ensuring that money is collected as efficiently and effectively as possible. In addition, the Board is required to perform an annual audit of the Justices' records or to engage an independent public accountant to do so.

We found that, as of May 31, 2015, a total of \$5,681 in documented collections received during the audit period had not been deposited into a Court bank account. Further, the Court did not report collections totaling \$5,999 to the JCF, and some collections were deposited up to 14 days beyond the required 72 hours. Additionally, as of May 31, 2015, Justice Smith's fine and fee account had a cash shortage of \$3,250 and his bail account had an unidentified balance of \$152, and Justice Durant's fine and fee account had a cash shortage of \$3,060 and his bail account had an additional cash shortage of \$250. These discrepancies occurred because the Justices did not ensure that bail records were accurate and complete, and bank reconciliations and accountability analyses were not performed for the Court bank accounts.

Further, the Justices did not establish policies and procedures for enforcing unresolved traffic tickets, and did not compare pending-ticket reports from the DMV to their caseload activity. As a result, the Town can lose potential revenue. The Board also did not audit the Justices' records as required, which could have helped identify the missing funds and other deficiencies found during our examination.

### Missing Cash Collections

A justice is personally responsible for moneys received by the Court and may be liable for money paid to the Court that was lost or stolen. Therefore, it is essential that each Justice maintain a current, accurate and complete list of all moneys collected. In addition, the Justices should provide sufficient oversight of clerks handling cash and issue receipts to acknowledge the collection of all funds paid to the Court. The receipts should be press-numbered and issued in sequential



order, and the Court should retain a duplicate copy of each receipt. The Justices are required to deposit intact<sup>7</sup> all funds collected by the Court as soon as possible, but no later than 72 hours from the date of collection.

There were no formal policies and procedures for the Court's day-to-day operations. As a result, the clerks were responsible for collecting payments, issuing receipts,<sup>8</sup> posting payments in the computer system and preparing deposits with limited or no oversight. Although the Justices were responsible for making their own deposits during our audit period, neither Justice compared the deposit amounts to the manual cash receipt records to verify that all collections were deposited into an official Court bank account.

We reviewed all manual receipts issued during our audit period, for 874 cash receipts totaling \$125,321, to verify that manual receipts were issued in sequential order and that the corresponding collections were deposited in a timely manner and intact. Although some receipts were issued by the Justices themselves, most were issued by the clerks. We found that, as of May 31, 2015, a total of \$5,681 in collections that were documented by manual receipts during the audit period had not been deposited into a Court bank account:

- For Justice Smith, collections totaling \$2,831 (20 manual receipts) were never deposited into his bank account and two deposits totaling \$30 were unsupported. In total, Justice Smith's deposits were \$2,801<sup>9</sup> short when compared to the corresponding cash receipt detail.
- For Justice Durant, collections totaling \$2,890 (18 manual receipts) were never deposited into his bank account and one deposit totaling \$10 was unsupported. In total, Justice Durant's deposits were \$2,880<sup>10</sup> short.
- As a result, as of May 31, 2015 a total of \$5,681 in collections that were documented by manual cash receipts as being received during the audit period had not been deposited into a Court bank account.

Additionally, while all 874 receipts were issued in sequential order, 45 receipts totaling \$10,332 were deposited up to 14 days beyond the 72-hour requirement. Further, the receipts did not indicate whether

<sup>7</sup> In the same amount and form (i.e. cash, check or money order) of payment as received

<sup>8</sup> Each Justice had his own separate press-numbered duplicate receipt books from which manual receipts were issued.

<sup>9</sup> See Appendix A for detail.

<sup>10</sup> Ibid.

each payment was made by cash, check, or money order. Therefore, we obtained deposit compositions from the bank for deposits made during the audit period to determine if any of the money deposited was not directly related to justice court revenue. We did not note any irregular deposit compositions. However, when Court personnel do not deposit collections in a timely manner and receipts do not specify the payment composition, there is an increased risk that cash will be lost or misused.

Both Justices stated they had no prior knowledge of any shortages or missing collections, and did not make periodic comparisons between the manual cash receipt records and the bank deposit amounts but simply made the deposits prepared for them by the clerks.<sup>11</sup> Both Justices certified that, as of May 31, 2015, they had no collections on hand that had not yet been deposited.

## Bail Records

The amount of bail collected and processed by the Court can involve significant amounts of money; therefore, an accurate and up-to-date record of all bail received and on hand is essential. Bail for pending cases is posted by or on behalf of defendants generally to guarantee appearance in Court to answer charges. In some instances, bail can remain with the Court for long periods of time. Therefore, Justices should maintain a record of all bail held, to enable verification of a Court's liabilities. The receipt and disposition of bail should be recorded in the bail records promptly after the transactions occur to ensure that the record is complete and up to date.

Our review of bail records<sup>12</sup> for Justice Smith identified that, as of May 31, 2015, the Justice was accountable for bail totaling at least \$56,523 for 35 individuals.<sup>13</sup> Although the Justice and clerks maintained bail records in the Court's computerized financial system, we found that more than one person entered the information, and that the records were not accurate and complete. As of May 31, 2015, we identified the following discrepancies:

- The Justice's bail record did not include bail being held for four individuals totaling \$368. For example, bail of \$300 for one individual was received and deposited by Justice Smith, but was incorrectly recorded in Justice Durant's outstanding bail record.

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<sup>11</sup> The majority of the missing collections occurred when one clerk was out on medical leave, leaving the other clerk to perform the collection duties independently.

<sup>12</sup> The bail records included outstanding bail lists, documentation from the Franklin County Civil Office, manual receipt books, bank statements and individual case files. Bail received at the Franklin County Jail is remitted by the Sheriff's Civil Office to the Court.

<sup>13</sup> We reviewed bail records dating back to October 2010 to arrive at this amount.

- The Justice’s outstanding-bail record contained bail for eight individuals totaling \$35,455 which should not have been retained on record, because bail for these individuals had either been transferred to a higher court; had already been applied to fines and fees owed by the defendants; or had already been returned to the defendant.
- We found variances totaling \$4,645 between the amounts indicated on Justice Smith’s bail record as outstanding and the amounts actually outstanding for three individuals. For example, an amount totaling \$2,500 was included on the Justice’s bail record as still being on hand, although \$2,425 of that amount had been returned to the defendant. The remaining \$75 was still outstanding because the amount was related to bail poundage<sup>14</sup> that had not yet been reported or remitted to the JCF by the Justice as of May 31, 2015.

Our review of bail records for Justice Durant identified that, as of May 31, 2015, the Justice was accountable for bail totaling at least \$18,934 for 17 individuals. Although Justice Durant and the clerks worked together to maintain bail records in the Court’s computerized financial system, we found that, as with Justice Smith, the records were not accurate and complete. We identified the following discrepancies:

- The Justice’s bail record did not include bail totaling \$1,000 being held for two defendants,<sup>15</sup> which was not included on the Justice’s bail listing even though the amounts were received and deposited by the Justice and had not yet been returned or forfeited as of May 31, 2015.
- The Justice’s bail record contained bail totaling \$4,195 for four individuals that we found had either already been returned to the defendant or were on deposit with Justice Smith. For example, the Justice’s bail record included bail totaling \$2,425 for one individual, however, we found that the bail had already been returned to the defendant. This occurred because although the bail was returned to the individual, the proper entry was not made in the Court’s computerized financial system to reduce the Justice’s bail liability.

These discrepancies existed because the Justices did not ensure that bail transactions were recorded in the Court’s financial system in a timely and accurate manner and, therefore, cannot ensure bail is

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<sup>14</sup> The Court is entitled to charge a fee of up to 3 percent of the amount of cash bail deposited with the Court in connection with a criminal action or proceeding over which the Court retains jurisdiction. This is known as bail poundage.

<sup>15</sup> Each of the two individuals posted bail totaling \$500.

properly accounted for and appropriately disbursed. Had bail reports been generated and compared with the activity in the bank accounts, these errors likely would have been detected. Court personnel's failure to perform a monthly accountability analysis (as discussed later in this report) also contributed to these errors being undetected.

## **Monthly Reports and Remittance of Funds**

On a monthly basis, the Justices must report all moneys collected (excluding pending bail) to the JCF, and remit their collections to the Town Supervisor so that the moneys can be properly disbursed among New York State, Franklin County and the Town in a timely and efficient manner.<sup>16</sup> The amount remitted by each Justice should agree with the amount reported to the JCF on the corresponding monthly report. It is the Justices' responsibility to ensure that their monthly reports are complete and accurate and that the proper amount is remitted to the Supervisor each month.

The clerks were responsible for preparing the monthly reports to the JCF during our audit period. Although the Justices reviewed and approved the reports before they were submitted, the reviews did not include comparing the monthly reports to the manual cash receipt records to ensure that all collections were reported to the JCF.

We compared the monthly reports to the manual cash receipt records for the audit period to determine if all Court collections were accurately reported to the JCF, and found discrepancies for both Justices.

For Justice Smith, \$74,046 in reportable collections<sup>17</sup> was received during the audit period; however, only \$71,437 was reported to the JCF (a \$2,609 variance). The variance resulted from 26 cash receipts totaling \$3,254 that were not reported to the JCF, and \$645 that the Justice reported to the JCF but which had no supporting documentation such as manual receipts. Similarly, for Justice Durant, \$60,846 in reportable collections was received during the audit period, but only \$58,101 was reported to the JCF (a variance of \$2,745). The variance was due to 22 cash receipts totaling \$2,745 were not reported to the JCF. As a result, the Court did not report collections totaling \$5,999 to the JCF during the period January 1, 2014 through May 31, 2015.

Both Justices stated that, to make sure their respective fine and fee bank accounts were properly maintained, they would add all deposits made during the month and remit the total to the Supervisor. However, they did not verify agreement between the manual cash receipts, the

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<sup>16</sup> The Justices file their monthly reports to the JCF electronically, and therefore would not remit collections directly to the JCF through the mail, along with hardcopy reports.

<sup>17</sup> Reportable collections include all payments received by the Court (fines, surcharges, civil fees, etc.) excluding collections for bail.

bank deposits and the amount that is reported to the JCF each month, resulting in the errors and discrepancies identified. Without periodic comparisons between the cash receipt detail and monthly reports, the Town continues to be at risk of not receiving all its Court-related revenues and Town officials have no assurance that all collections are accurately reported to the JCF.

## **Accountability**

Justices are responsible and accountable for all moneys received by their Courts. At any point in time, the recorded liabilities of the Court, such as bail held on pending cases and unremitted fines and fees, should equal the Justices' available cash. Each month, Court personnel should compare cash on hand and on deposit in the bank (per monthly bank statements) to their accounting records, including outstanding bail and amounts due to the JCF. Each Justice's account should reconcile to any outstanding checks, held bail and fines received but not yet remitted to the Justice Court Fund. Routine bank reconciliations and accountability analyses are critical to document the status of moneys held by the Court and to enable the Court to check for and correct errors or identify cash shortages. Justices are personally responsible for moneys received by the Court and may be liable for money paid to the Court that is lost or stolen.

The Court had four bank accounts<sup>18</sup> during our audit period. However, bank reconciliations and accountability analyses were not performed for any of the four bank accounts. We prepared accountability analyses for all four bank accounts for each month during our audit period and found a number of errors, including the following items.

Justice Smith's Accounts – The liabilities in the Justice's fine and fee account did not agree to the cash-on-hand balance for any of the 17 months during our audit period. Specifically, as of January 31, 2014, the account had an unidentified positive balance of \$196, which developed into a shortage of \$3,250 as of May 31, 2015.

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<sup>18</sup> A separate fine and fee account and a separate bail account for each Justice

**Figure 1: Justice Smith's Fine and Fee Account - Accountability Analysis  
As of May 31, 2015**

<b>Court Assets</b>	<b>Amount</b>
Adjusted Bank Account Balance	\$16,656
<b>Total Court Assets</b>	<b>\$16,656</b>
<b>Court Liabilities</b>	
Fines and Fees Due to JCF for May 2015	\$3,727
Amount Due to Supervisor (from prior months)	\$195
Due to Other Justice	\$125
Unreported Fines and Fees	\$3,254
Due to Bail Account	\$12,605
<b>Total Known Liabilities</b>	<b>\$19,906</b>
<b>Cash Shortage</b>	<b>(\$3,250)</b>

Justice Smith told us that he was unaware there was a shortage in his account. The shortage increase of \$3,446 was due to \$2,801 in cash collections that were documented with manual receipts but not deposited into the Justice's bank account, and \$645 that was reported to the JCF and remitted to the Supervisor but had no documentation supporting the collections. In addition to the shortage, \$3,254 in collections, documented by manual receipts, was not reported to the JCF during the audit period.

Additionally, the Justice's fine and fee account owes his bail account \$12,605 for \$12,500 in bail payments that were erroneously deposited into the wrong account and \$105 relating to bail poundage that was paid out of the Justice's fine and fee account that should have been paid out of his bail account. We also noted multiple other recording and reporting discrepancies. For example, the Justice's fine and fee account owes the Supervisor \$195 for remitting less than what was reported to the JCF during the audit period and owes Justice Durant \$125 for collecting a payment that was reported to the JCF by Justice Durant.

We also performed an analysis for Justice Smith's bail bank account and found that his cash balance exceeded his known liabilities for each of the 17 months during our audit period. This account has carried an unidentified balance of \$152 for each month. We found several discrepancies in the Court's records for Justice Smith's bail account. For example, the Justice was carrying \$83,602 in his bail account that was not related to bail or any other Court operation, which we found was erroneously wired into the Justice's bank account from the Town's general fund in August 2012. As of May 31, 2015, these funds had not been transferred back to the general fund. The Town

Supervisor stated that the \$83,602 was revenue related to the Town’s casino compact and that she made the transfer by accident. However, we found no evidence that the amount was even discovered by Town officials until our audit took place. The lack of bank reconciliations and monthly accountabilities has allowed the error to occur without being detected or corrected for almost three years.

Justice Durant’s Accounts – Known liabilities in the Justice’s fine and fee account exceeded his assets for all 17 months during our audit period. The account had a shortage of \$180 as of January 31, 2014 that increased to a shortage of \$3,060 as of May 31, 2015.

<b>Figure 2: Justice Durant’s Fine and Fee Account – Accountability Analysis As of May 31, 2015</b>	
<b>Court Assets</b>	<b>Amount</b>
Adjusted Bank Account Balance	\$2,473
Due from Other Justice	\$125
<b>Total Court Assets</b>	<b>\$2,598</b>
<b>Court Liabilities</b>	
Fines and Fees Due to JCF for May 2015	\$2,473
Amount Due to Supervisor (from prior months)	\$260
Unreported Fines and Fees	\$2,745
Due to Bail Account	\$180
<b>Total Known Liabilities</b>	<b>\$5,658</b>
<b>Cash Shortage</b>	<b>(\$3,060)</b>

Justice Durant also told us that he was unaware there was a shortage in his account. The shortage increased by a total of \$2,880 during the audit period, due to collections that were documented with manual receipts but not deposited into the Justice’s bank account. This shortage included \$2,745 in collections, documented by manual receipts, that was not reported to the JCF during the audit period. We also found other recording and reporting discrepancies in Justice Durant’s fine and fee account, which include the following:

- The Justice is owed \$125 from Justice Smith for collections received and deposited into Justice Smith’s bank account that were reported to the JCF by Justice Durant;
- The Justice owes the Supervisor \$260 for remitting less than what was reported to the JCF during the audit period;

- The Justice's fine and fee account owes his bail account \$180 as the result of disbursements erroneously made out of the bail account instead of the fines and fees account.

Our analysis for Justice Durant's bail bank account also found that his liabilities exceeded the cash balance for each of the 17 months during our audit period, resulting in a shortage of \$250. We found several discrepancies. For example, the Justice's fine and fee bank account owes his bail bank account \$180 for two instances where the Justice erroneously made a disbursement from his bail bank account.

The lack of monthly bank reconciliations and accountability analyses being performed contributed to the discrepancies identified in the Court's records and also resulted in a combined total of \$6,408 in cash shortages as of May 31, 2015 for the two Justices, which were not detected by Court personnel or Town officials.

## Traffic Tickets

To avoid a backlog of outstanding cases, it is essential for the Justices to establish policies and procedures for enforcing unresolved traffic tickets. These guidelines should include using reports available from the DMV. For example, the Court can use the DMV scofflaw program<sup>19</sup> to enforce court appearance and the payment of fines. The Court has to wait 60 days from either the date of appearance or last payment before sending correspondence to the DMV to suspend the motorist's driving privileges.

Local and State police agencies issue Uniform Traffic Tickets (UTTs) for vehicle and traffic infractions. The DMV tracks the tickets by adding pertinent information to its Traffic Safety Law Enforcement and Disposition (TSLED) database. Upon adjudication, when all fines are paid, the Court must send a copy of the ticket to the DMV for removal from the pending-ticket database. Court personnel can generate reports from the TSLED database that list all pending UTT cases. The Justices should routinely review these reports to ensure that the Court is processing tickets in a timely manner. The clerks can also generate a TSLED report of the cases that have been pending for 60 days and identify individuals who either have not appeared in court to resolve their tickets or have not paid their fines. The clerks should then report these cases to the DMV to be enforced through the scofflaw program.

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<sup>19</sup> The DMV scofflaw program allows local justice courts to notify the DMV when an individual has an unresolved (failure to pay the fine or failure to appear on the court date) traffic ticket for a 60-day period. When this occurs, the DMV notifies the individual and gives them 30 additional days to address the issue. If the individual has not taken action, then the DMV suspends the individual's license until the individual addresses the outstanding ticket.



The Justices have not established policies and procedures for enforcing unresolved traffic tickets. As a result, the Court is not enforcing and monitoring unresolved traffic tickets in a timely manner. Although the Town participates in the DMV scofflaw program, the Court does not use TSLED reports to enforce and monitor unresolved traffic tickets. Instead, the Justices and clerks have developed informal procedures for identifying cases to be reported to the scofflaw program. We requested a report directly from the DMV of all pending UTTs (pending-ticket report) as of May 28, 2015, which contained 5,257 pending cases, dating back to 1985. We reviewed 30 cases<sup>20</sup> from this report and found that – although none had been reported to the scofflaw program – five cases could have been reported.<sup>21</sup> The large volume of pending cases included on the DMV pending-ticket report suggests that the Court is not actively monitoring and following up on pending and unpaid UTTs.

The Justices' failure to establish policies and procedures for the enforcement of unresolved traffic tickets and lack of oversight has resulted in unresolved traffic tickets not being properly enforced, and could also lead to potential lost revenue to the Town.

## **Annual Audit**

New York State Town Law and the New York State Uniform Justice Court Act require town justices to present their records and dockets to the Board for audit at least once a year. The Board is responsible for annually auditing the books and records of the Court or contracting with a public accountant for that purpose. To assist with this responsibility, the Office of the State Comptroller has prepared a *Handbook for Town and Village Justices and Court Clerks*, which contains sample schedules and questionnaires to assist in completing this annual audit. The minutes of the Board proceedings should document the results of the audit. An annual audit provides assurance that accounting records are properly maintained, cash assets are properly accounted for, and Court moneys are properly disposed of.

The Board did not audit the Court's records during our audit period or contract with an independent public accountant for that purpose. As a result, the Court maintained inaccurate records and allowed discrepancies, such as missing collections, to occur and remain undetected. Had the Board conducted, or contracted for, an annual audit of the Court as required, the deficiencies found during our audit may have been identified and more timely corrective action could have been taken.

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<sup>20</sup> We selected our sample of 30 cases that were issued during the 2014 and 2015 fiscal years, with no expectation that more or fewer errors would occur in our sample of pending cases than in any other sample of pending cases.

<sup>21</sup> Three cases qualified to be reported to the scofflaw program based on failure to appear, and two cases qualified based on failure to pay.

## Recommendations

The Justices should:

1. Investigate the missing collections identified in this report and take action to recover them or reimburse the Court from their personal funds.
2. Segregate duties over cash collections, if practicable, or establish appropriate compensating controls, such as monthly reviews of Court records.
3. Compare deposit amounts to manual cash receipt records to ensure that all collections are deposited in a timely manner and intact.
4. Maintain accurate and complete lists of bail held and disbursed.
5. Ensure that all reportable collections are accurately reported to the JCF for the month in which they were received by comparing the monthly reports to the JCF to the cash receipt records (manual receipts issued).
6. Ensure that bank reconciliations and accountability analyses are prepared monthly, reconciling known liabilities to available cash, and promptly investigate and resolve any discrepancies.
7. Reimburse the other Justice for the appropriate amounts identified in this report.
8. Establish written policies and procedures to ensure that traffic tickets unresolved after 60 days are enforced by being reported to the DMV scofflaw program.

Justice Smith and clerks should:

9. Determine the source of the unidentified balance in Justice Smith's bail account and disburse it to the appropriate party. Any part of the cash whose origin remains undetermined should be reported to the JCF as unidentified funds.

Justice Durant should:

10. Reimburse the Supervisor the \$260 identified in this report.
11. Take action to recover the \$3,060 cash shortage identified in this report or reimburse the Court from personal funds.

12. Ensure that the \$2,745 identified as being received, but not reported to the JCF, is reported to the JCF.
13. Reimburse his bail account for the \$250 cash shortage identified in this report.

Justice Smith should:

14. Reimburse the Supervisor the \$195 identified in this report.
15. Take action to recover the \$3,250 cash shortage identified in this report or reimburse the Court from personal funds.
16. Ensure that the \$3,254 identified as being received, but not reported to the JCF, is reported to the JCF.

The Board should:

17. Annually audit or contract for an audit of the Court's records and document the results of the audit in the Board minutes.

## APPENDIX A

### MISSING CASH COLLECTIONS

As of May 31, 2015, a net total of \$5,681 in collections that were documented by manual cash receipts as being received by the Court during the audit period<sup>22</sup> had not been deposited into the Justices' Court bank accounts. These amounts (totaling \$2,801 for Justice Smith and \$2,880 for Justice Durant) are detailed as follows.

<b>Figure 3: Missing Cash Collections – Justice Smith</b>				
<b>Receipt Number</b>	<b>Receipt Date</b>	<b>Receipt Amount</b>	<b>Deposit Amount</b>	<b>Variance</b>
773	04/22/2014	\$100	\$0	(\$100)
777	04/29/2014	\$100	\$0	(\$100)
828	07/12/2014	\$50	\$0	(\$50)
936	12/16/2014	\$236	\$136	(\$100)
977	01/20/2015	\$80	\$0	(\$80)
979	01/20/2015	\$100	\$0	(\$100)
989	02/03/2015	\$140	\$0	(\$140)
997	02/03/2015	\$250	\$0	(\$250)
1002	02/10/2015	\$30	\$0	(\$30)
1003	02/10/2015	\$40	\$0	(\$40)
1023	02/24/2015	\$50	\$0	(\$50)
n/a	03/24/2015	\$2	\$0	(\$2)
1036	03/03/2015	\$63	\$0	(\$63)
1038	03/03/2015	\$50	\$0	(\$50)
1048	03/10/2015	\$225	\$0	(\$225)
1049	03/10/2015	\$193	\$0	(\$193)
1050	03/10/2015	\$168	\$0	(\$168)
1073	03/31/2015	\$390	\$0	(\$390)
n/a	n/a	\$0	\$5	\$5
1107	04/29/2015	\$100	\$0	(\$100)
n/a	n/a	\$0	\$25	\$25
1125	05/12/2015	\$200	\$0	(\$200)
1135	05/21/2015	\$400	\$0	(\$400)
<b>Total for Justice Smith</b>				<b>(\$2,801)</b>

<sup>22</sup> Known bank deposits, noted with “n/a” in place of a receipt number, had no supporting documentation to indicate the source of payment.

<b>Figure 4: Missing Cash Collections – Justice Durant</b>				
<b>Receipt Number</b>	<b>Receipt Date</b>	<b>Receipt Amount</b>	<b>Deposit Amount</b>	<b>Variance</b>
374	08/26/2014	\$1,000	\$800	(\$200)
423	10/28/2014	\$280	\$0	(\$280)
448	11/25/2014	\$60	\$0	(\$60)
506	02/10/2015	\$40	\$0	(\$40)
529	02/23/2015	\$100	\$0	(\$100)
558	03/10/2015	\$100	\$0	(\$100)
566	03/17/2015	\$150	\$0	(\$150)
568	03/17/2015	\$150	\$0	(\$150)
570	03/17/2015	\$30	\$0	(\$30)
579	03/24/2015	\$200	\$0	(\$200)
580	03/24/2015	\$335	\$0	(\$335)
n/a	n/a	\$0	\$10	\$10
595	04/07/2015	\$40	\$0	(\$40)
597	04/07/2015	\$335	\$0	(\$335)
1801	04/07/2015	\$190	\$50	(\$140)
1808	04/14/2015	\$300	\$0	(\$300)
1827	04/28/2015	\$180	\$0	(\$180)
1830	05/05/2015	\$150	\$0	(\$150)
1841	05/12/2015	\$100	\$0	(\$100)
<b>Total for Justice Durant</b>				<b>(\$2,880)</b>

## **APPENDIX B**

### **RESPONSE FROM LOCAL OFFICIALS**

The local officials' response to this audit can be found on the following pages. We received a response from Justice Smith.

C. Curtis Smith  
Bombay Town Justice  
P.O. Box 185  
Bombay, NY 12914  
ccsmith@nycourts.gov



June 1, 2017

Office of the State Comptroller  
110 State Street  
15<sup>th</sup> Floor  
Albany, NY 12236

Dear Office of the State Comptroller,

This letter is my personal reply to the audit of Bombay Town Justice Court and the subsequent meeting with the auditors on May 4 to discuss the findings of the audit.

I have gone over the recommendations of the auditors and this is my response to their recommendations.

1. Investigate the missing collections identified in this report and take action to recover them or reimburse the Court from their personal funds.

*We have talked with the Town Board about this. They indicated the Town has insurance to cover the missing funds. The clerk that was arrested has been sentenced to restitution, so we are waiting to find out if they want us to reimburse the Town, wait until the restitution is made or make a claim to the Town's insurance.*

2. Segregate duties over cash collections, if practicable, or establish appropriate compensating controls, such as monthly reviews of Court records.

*As much as is possible, one clerk has been given the responsibility of cash collections. Sometimes, due to absences, the other clerk or one of the judges must handle cash collections. We are doing much more attention to monies due, collected, and deposited and all financial records.*

3. Compare deposit amounts to manual cash receipt records to ensure that all collections are deposited in a timely manner and intact.

*Deposits are compared to receipts after every court session and all money is deposited as soon as possible and always within 72 hours of receipt.*

4. Maintain accurate and complete lists of bail held and disbursed.

*One clerk has been working on this.*

*We were unable to complete everything on this, due to several of our records being held by the District Attorney's Office for the criminal case against the former clerk. We have recently had the records returned and are working to get these lists up to date.*

5. Ensure that all reportable collections are accurately reported to the JCF for the month in which they were received by comparing the monthly reports to the JCF to the cash receipt records (manual receipts issued).

*We are now going over all receipts after every court session and comparing them to our deposits for that session. At the end of the month, we are going over every session for the month and comparing them to our monthly report.*

6. Ensure that bank reconciliations and accountability analyses are prepared monthly, reconciling known liabilities to available cash, and promptly investigate and resolve any discrepancies.

*We are now balancing all receipts with our monthly bank account and making sure they agree with our monthly report to the JCF.*

7. Reimburse the other Justice for the appropriate amounts identified in this report.

*At our next court session on June 6, I will be writing a check for \$125 to Judge Durant.*

8. Establish written policies and procedures to ensure that traffic tickets unresolved after 60 days are enforced by being reported to the DMV scofflaw program.

*We are now keeping much better track of unresolved traffic tickets and reporting scofflaws to DMV on all unresolved cases, unless prior agreements have been made regarding partial payments.*

Justice Smith and clerks should:

9. Determine the source of the unidentified balance in Justice Smith's bail account and disburse it to the appropriate party. Any part of the cash whose origin remains undetermined should be reported to the JCF as unidentified funds.



*Since we just recently received our financial records back from the District Attorney's Office, we are working to find the source of the unidentifiable funds. As soon as we identify these funds, they will be reported to the JCF.*

Numbers 11, 12 and 13 deal with Judge Durant. I will let him respond for himself.

Justice Smith should:

14. Reimburse the Supervisor the \$195 identified in this report.

*At the next court session of June 6, I will reimburse the Town with a check for \$195.*

15. Take action to recover the \$3,250 cash shortage identified in this report or reimburse the Court from personal funds.

*I am awaiting direction from the Town. They have indicated that the town is insured for these losses and the clerk has been sentenced to restitution for the missing funds.*

16. Ensure that the \$3,254 identified as being received, but not reported to the JCF, is reported to the JCF.

*I intend to seek guidance from the auditors on exactly how to do this.*

As I said in the opening, this my personal response to the audit report. If you should have any questions, feel free to contact me at [REDACTED]

Sincerely,

**C. Curtis Smith**  
signature redacted

Bombay Town Justice

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to review the Town's internal controls over the Court's financial operations for the period January 1, 2014 through May 31, 2015. We expanded our audit scope period as follows:

- Back to October 2010 to review documentation of outstanding bail for each Justice;
- Back to August 2012 to document an \$83,602 deposit that was erroneously made into Justice Smith's bail bank account;
- Back to September 2013 to review the monthly reports to the JCF for Justice Durant for the months of September 2013, October 2013 and November 2013 to determine if three checks issued by the Justice during the audit period were for the appropriate amounts.

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

- We interviewed the current Justices, clerks and other Town officials. We reviewed various financial records and reports related to the Court's financial activities to gain an understanding of the internal controls over the Court's financial operations, and documented any associated effects of deficiencies found in those controls.
- We reviewed all manual receipts that were issued for each of the two acting Justices during our audit period to verify that receipts were issued in sequential order, and that the corresponding deposits were timely and intact and reported to the JCF, excluding collections for bail.
- We used outstanding bail lists, documentation from the Franklin County Civil Office, manual receipt books, bank statements and individual case files to compile a list of bail that each acting Justice was accountable for as of May 31, 2015. We then compared our list of bail to the Court's bail records as of May 31, 2015 to determine if the Court's bail records were accurate and complete.
- We prepared accountability analyses for all four bank accounts for each month during our audit period to determine if the corresponding assets agreed with the known liabilities. We then investigated and documented any differences that were disclosed.
- We reviewed all checks that were issued from the Court's bank accounts during our audit period to determine if checks were issued in sequence, were signed by the Justices and were for appropriate Court purposes and amounts.
- We reviewed 30 cases from a DMV pending-tickets report as of May 28, 2015 to determine if the Court was enforcing the payment of unresolved traffic tickets in a timely manner through DMV's scofflaw program.

- We interviewed Town officials and reviewed the Board minutes to determine if the Board audited or contracted for an audit of the Court's financial records at any time during our audit period.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## APPENDIX D

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**APPENDIX E**  
**OFFICE OF THE STATE COMPTROLLER**  
**DIVISION OF LOCAL GOVERNMENT**  
**AND SCHOOL ACCOUNTABILITY**

Andrew A. SanFilippo, Executive Deputy Comptroller  
Gabriel F. Deyo, Deputy Comptroller  
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