



Town of Byron

Internal Controls Over Justice Court Operations

Report of Examination

Period Covered:

January 1, 2011 — September 20, 2012

2012M-208



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

January 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 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 Byron, 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 Byron (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), which comprises 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 Court financial activities. 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. For the Town's 2011 fiscal year, \$27,000 in revenue was attributable to Court operations. The Town operates its Court with two Justices. Justice Daniel DiMatteo has presided since 2006. James Lamkin ended his term in December 2011. John Ivison was elected to replace Justice Lamkin beginning in January 2012. However, he resigned during March 2012 and was replaced by Justice Barbara Smith in April 2012.

Objective

The objective of our audit was to review the Town's internal controls over Justice Court operations. Our audit addressed 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 Justice Court operations for the period January 1, 2011 through September 20, 2012.¹

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 planned to initiate corrective action.

¹ For our review of pending tickets, the scope period was extended back to January 1, 2010.

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 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

Town Justices are responsible for establishing internal controls to ensure that all fines and fees received are properly recorded, remitted, and protected against the threat of being lost or stolen. A well-designed system of internal controls ensures that cash received by the Court is safeguarded and that Court activity is properly recorded and reported. The Justices must ensure that internal controls are in place and working effectively, particularly when duties are not properly segregated. The Board should perform the required annual audits of the Justices' records or engage the services of an independent public accountant to perform the audits. As part of the audit, the Board should review the Justices' enforcement of unpaid tickets and reporting of all Court transactions to the New York State Department of Motor Vehicles (DMV) in a timely manner.

We reviewed the internal controls over Court operations and the Justices' records and reports and found that the duties were not segregated because the Justices performed all duties including handling of cash receipts. The lack of segregation of duties make the annual audit even more important. However, Town officials failed to provide sufficient evidence that annual audits of the Justices' books and records were conducted, and the Justices did not always enforce unpaid tickets or report transactions to DMV in a timely manner.

Segregation of Duties

A well-designed system of internal controls is necessary to ensure that cash received by the Court is safeguarded. Proper segregation of duties ensures that no one person controls all phases of a transaction and provides for the work of one employee to be verified by another employee in the course of his/her duties. When segregation of duties is not achievable, compensating controls such as additional audit oversight by the Town Board should be implemented.

The Justices perform virtually every aspect of the cash accounting function, including collecting cash, recording transactions, and making deposits. The Justices also report Court transactions to the JCF and the DMV. Despite the lack of segregation of duties, the Town Board failed to consistently conduct annual audits of the Justice Court records and reports.

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 the Court's financial transactions are properly recorded and reported, and that all moneys are accounted for properly.

Town records indicate that two of the Board members performed an audit of the Court's records for 2010. However, there was nothing on file to show the specific time period covered by the audit, the extent of the work, 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. We also inquired about an audit of the 2011 records and the Supervisor indicated that an annual audit was not conducted as of September 2012, because the New York State Office of Court Administration had not sent the Town a letter requesting documentation that an annual audit was completed.

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.

Pending Tickets

The Justices are responsible for the enforcement of tickets to ensure laws are enforced and that revenues are collected as efficiently and effectively as possible.

We reviewed the DMV's pending-ticket log, which contained 629 pending tickets for the Court as of August 2012. This report showed that tickets were dated as far back as 1985. Table 1 shows the year of the scheduled court appearances and the number of tickets that correspond to each year.

Table 1: Pending Tickets	
Year(s)	Tickets
1985-1989	11
1990-2000	84
2000-2005	115
2006	50
2007	28
2008	27
2009	45
2010	69
2011	81
2012	119
Total	629

Due to the significant number of pending tickets, we randomly selected 25 tickets² from the log to determine the status and enforcement of each ticket and noted the following deficiencies:

- Thirteen tickets were either dismissed, a fine was paid, or the case was transferred to another Court even though they were listed as pending with DMV. For example, one case history report showed that a fine had been paid and the case was closed during November 2010.

The Court failed to provide documentation to show that these 13 tickets were properly reported to DMV. The Justices indicated that they perform a reconciliation of DMV tickets with their cases several times a year. However, an adequate reconciliation of the DMV pending tickets report would have identified these cases as closed.

- Seven tickets were not enforced by the Court until we inquired about them. For instance, a ticket with a violation date of December 2011 was not scofflawed³ until September 2012. The Justice indicated that the case history report for two of the tickets stated that they were scofflawed by the Court, but the report from DMV showed otherwise.
- One ticket did not have case file information or any other records. The ticket was dated March 2011 and we confirmed with DMV that the ticket was for the Town of Byron Court.

Because the Justices do not adequately reconcile DMV reports with current Court caseload activity, unpaid tickets were not enforced in a timely manner.

Recommendations

1. The Board should perform a thorough audit of the Court records on an annual basis. Evidence of an audit indicating the audit tests performed, the records reviewed and the results of the audit should be retained and noted in the minutes.
2. 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.
3. The Justices should contact the Office of Court Administration to determine what to do about the pending tickets and whether the oldest ones are still enforceable or should be dismissed.

² From January 1, 2010 through July 2012

³ 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.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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



TOWN OF BYRON

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Barry Flansburg, Assessor
Daniel DiMatteo, Town Justice
Barbara Smith, Town Justice

Town Board
Jack Redick
Jeff Thompson
Scott Wooton
Harold Austin

December 28, 2012

NYS Office of the State Comptroller
Attn: Robert Meller
110 State Street
Albany, New York 12236

Dear Mr. Meller:

The Byron Town Board and Town Justices wish to thank the Office of the State Comptroller for conducting its recent audit.

Based upon the recommendations of the audit, the Town has decided to establish and fill the position of Court Clerk. The Court Clerk will assist the Justices with periodic review and reconciliation of ticket logs and dispositional reporting in a timely manner.

Further, the Town Board will more thoroughly document its annual review of court records, and will retain audit results and note the audit findings in the Town Board minutes.

The Justices will also contact the Office of Court Administration to determine how pending and ancient tickets are to be handled, or if they should be dismissed.

Please do not hesitate to contact me if you have any questions or require anything further.

Sincerely,

Robert A. Crnkovich
Supervisor

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: justice 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 justice 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 Justice Court operations, including an annual audit and Board oversight.
- We examined the Justice's accounting records, bank statements, canceled checks, duplicate deposit tickets, monthly reports to the Justice Court Fund, tickets, case history reports, Department of Motor Vehicles pending ticket log, bank deposit compositions, and duplicate receipts.
- For Justice Smith, we verified the monthly report with her accounting records for August 2012.
- For Justice DiMatteo, we verified the monthly report with his accounting records for April 2011.
- We compared six bank compositions with the accounting records.
- For Justice DiMatteo, we compared duplicate receipts with his accounting records for January and February 2012.
- For Justice Smith, we compared duplicate receipts with her accounting records for June 2012.
- We performed an analysis of duplicate deposit tickets from January 2011 to August 2012.
- We inquired with the Justices about DMV's pending ticket log and about a reconciliation of that list. We also inquired with the Justices and Supervisor regarding the status and enforcement of selected pending cases.

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.

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