



Town of Kendall

Justice Court

Report of Examination

Period Covered:

January 1, 2010 — February 26, 2013

2013M-130



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	2
INTRODUCTION	3
Background	3
Objective	3
Scope and Methodology	3
Comments of Local Officials and Corrective Action	3
JUSTICE COURT	5
Recommendations	7
APPENDIX A Response From Local Officials	9
APPENDIX B Audit Methodology and Standards	11
APPENDIX C How to Obtain Additional Copies of the Report	12
APPENDIX D Local Regional Office Listing	13

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

August 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 Kendall, entitled Justice Court. 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 Kendall (Town) is located in Orleans County, has a population of approximately 2,700, and encompasses almost 33 square miles. The Town is governed by an elected Town Board (Board) comprised of four council members and a Town Supervisor. The Board is responsible for the general management and control of Town finances through the adoption of an annual budget. The Board has the overall responsibility for overseeing the financial activities of the Town, including the financial activity of the Justice Court (Court).

The Town has two elected Justices who preside over Court operations. The Justices are responsible for adjudicating legal matters within the Court's jurisdiction and properly accounting for all moneys collected and disbursed by the Court. 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 Court reported revenues of approximately \$22,700 during 2012.

Objective

The objective of our audit was to review the processes and procedures for the Justice Court's financial operations. Our audit addressed the following related question:

- Did the Justices accurately and completely collect, record, deposit, and report Court moneys in a timely manner?

Scope and Methodology

We examined the records and reports of the Court for the period January 1, 2010, to February 26, 2013. Information was obtained from prior years when necessary to complete our audit objective.

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 the findings and recommendations and indicated they are taking corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of 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

A well-designed system of internal controls is necessary to ensure that cash received by the Court is safeguarded and that Court activity is properly recorded and reported. This is particularly important when there is limited segregation of duties. Justices are responsible for adjudicating cases brought before them and for the accounting and reporting of all related Court financial activities. The New York Codes, Rules and Regulations require the Justices to maintain complete, accurate, and timely accounting records; reconcile bank accounts with recorded cash activity; maintain separate bank accounts; deposit moneys in a timely manner; and report Court activity to the JCF accurately and in a timely manner.

We found significant control deficiencies with the Court's operations. The Justices did not ensure that all Court fines, fees, and surcharges were properly accounted for. While our testing found that monthly reports were submitted to the JCF in a timely manner, they were not always complete and accurate. We also found that bail and partial payments were not properly recorded. Further, the Justices did not ensure that cases were properly reported to the New York State Department of Motor Vehicles (DMV). Because of these deficiencies, risk is increased that Court funds could be misappropriated without detection.

Cash Receipts – We compared 23 receipts from the manual cash receipts book to bank deposits and a monthly report to the JCF¹ and found that the cash receipts were properly recorded, deposited in a timely manner, and correctly reported to the JCF. However, because the Court did not have copies of bank deposit slips, it could not demonstrate whether the deposits were made intact.² We also reviewed all 12 monthly reports to the JCF for one year and found that they were submitted in a timely manner. Although these tests did not disclose significant errors, our subsequent computer-assisted data analysis identified certain reporting discrepancies.

Disposed Cases – We used computer-assisted data analysis to compare the Court's electronic records during our audit period to data that we obtained from the DMV and JCF. We judgmentally selected 30 cases from the results of the computer-assisted data analysis and found that four cases were reported to DMV as disposed, with imposed fines/surcharge amounts that totaled \$1,415. However, these four cases were not reported to the JCF, and the Court's financial

¹ November 2012 for one Justice and October 2012 for the other Justice

² Moneys collected are deposited in the same manner as collected.

records did not indicate that any fines/surcharges were collected or imposed. The Court Clerk indicated that no fines/surcharges were collected for those cases, but she could not explain why they were reported as disposed cases with imposed fines/surcharges to DMV. Those four cases have arrest dates in 2007 and 2008.

Accountability – Because the Justices did not perform adequate bank reconciliations or monthly accountabilities to verify the status of moneys held by the Court, we performed accountabilities for the two Justices. While we did not find discrepancies in one Justice’s records, the other Justice’s bank account had a reconciled balance of \$11,435 as of November 30, 2012. After payment to the JCF for the November 2012 activity, totaling \$2,177, there was a \$9,318 balance in the account. This amount should represent bail and restitution held in connection with pending cases. The Court clerk stated the entire amount was bail money. However, there were no bail records maintained to substantiate this amount. When the Court received bail from the County Sheriff, the Court clerk prepared a manual receipt. However, this information was not entered into the Court accounting system or tracked in any other way. Because the Justices did not maintain adequate bail records, the Court has an increased risk that errors or improprieties may occur and remain undetected and uncorrected.

Partial Payment – The Justices also did not maintain appropriate records to track partial payments and facilitate the collection of these payments. The Court clerk indicated on the duplicate manual receipt only when payments were not for the full amount. The computer accounting system has the ability to generate a balance due report. However, neither the Justices nor the Court clerk generated such a report or were even aware of this reporting capability. The Court clerk had very limited knowledge of the Court’s computer accounting system. During field work, we obtained the partial payment report from the system and found 62 cases with a total balance due of approximately \$13,000. The arrest dates for those cases were dated from 2004 through 2012. We selected 21 individuals with 26 charges for further review and found many of them had no documented Court action taken for several years. For example, one case with a balance due of \$665 had no recorded Court action taken since May 2005.

Pending Cases – The Justices not only did not routinely scofflaw cases 60 days after payment was not received, but also did not actively track pending cases. A pending cases report was never generated from the system. When we requested a pending cases report to be prepared during our audit, it listed 612 pending cases.³ Some of the pending cases had arrest dates dating back more than 15 years.

³ The 62 cases with a balance due (noted previously) are included in the 612 pending cases.

We judgmentally selected 10 individuals (12 charges) from the balance due report and three individuals (four charges)⁴ which we identified using computer assisted analysis, and mailed confirmation letters to those individuals to corroborate whether payments were made. Only one individual responded to our inquiries. While this individual was insistent he had paid his fine/surcharge, he was unable to provide a receipt. As such, our confirmation was inconclusive. Nevertheless, this individual's response, taken in conjunction with the lack of others responding, is concerning and could be indicative of further discrepancies.

The Justices have not established adequate processes and procedures and have not used the *Handbook for Town and Village Justices and Court Clerks*⁵ promulgated by our office as a reference source. The Court clerk performs the majority of the Court's financial duties with limited oversight, including receiving payments, preparing and making bank deposits, entering financial and other information into the computer accounting system, preparing and filing the monthly report with the JCF, and maintaining case files. Furthermore, the Court clerk has limited knowledge about the Court's computer accounting system, and it appears that additional training is warranted. Neither Justice performed adequate bank reconciliations or monthly accountabilities by reconciling Court assets to known liabilities. The Justices do not provide adequate oversight of the Court clerk's work to compensate for her incompatible financial duties.

Because the Justices did not monitor the duties of or review the work performed by the Court clerk, the Court has an increased risk that recordkeeping errors may occur and remain undetected and uncorrected. Also, the Court has an increased risk that cash could be received and not deposited.

Recommendations

1. The Court should retain copies of bank deposit slips with which to help verify that deposits were made intact.
2. The Justices and Court clerk should use the *Handbook for Town and Village Justices and Court Clerks*.
3. The Justices and Court clerk should enhance their understanding of the Court's computer accounting system and consider attending any available training.

⁴ Those four were previously mentioned. They were reported to DMV as disposed with fines/fees but not reported to the JCF. They had no fines/fees imposed in the computer accounting system. Therefore, they did not appear in the balance due report. However, they were in the pending case report.

⁵ <http://www.osc.state.ny.us/localgov/pubs/jch.pdf>

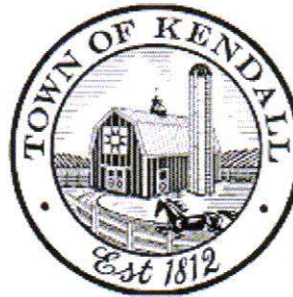
4. The Justices should provide adequate oversight of the Court clerk's incompatible financial duties.
5. The Justice with a surplus should identify the composition of moneys in his bank account and take appropriate action to remedy the situation.
6. The Justices should maintain accurate and complete bail and partial payment records.
7. The Justices should perform bank account reconciliations and accountabilities on a monthly basis by reconciling assets to known liabilities.
8. The Justice should scofflaw pending cases regularly and review balance due and pending cases reports to resolve outstanding issues and take action to close out old cases.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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

OFFICE OF THE SUPERVISOR



July 29, 2013

Office of the State Comptroller
Robert Meller, Chief Examiner
295 Main Street Suit 1032
Buffalo, NY 14203

RE: Town of Kendall
Draft Report of Examination

Dear Sir:

This letter is the Town of Kendall's official response to your Draft Report of Examination. We appreciate the professionalism and approachability displayed by the examiner during the audit.

The Town Board, the Town Justices, the Town Clerk and I have had opportunity to review the report and evaluate the findings. We do not have any basis to disagree with the factual content of the findings. The comments and recommendations are being taken seriously and steps are already being taken to address the recommendations offered and to implement corrective action.

A Corrective Action Plan will be submitted to your office within 30 days of the final audit report.

Thank you for the opportunity to respond.

Best Regards,

Daniel Gaesser
Town Supervisor
Town of Kendall

Craig Lape
Town Justice
Town of Kendall

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

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

- We interviewed appropriate Town officials and employees.
- We examined financial and other records relating to the collection and subsequent dispositions of fines and bail. These records included bank statements, monthly reports to the JCF, case files, and cash receipt and disbursement records.
- We compared receipts with bank deposits and the monthly reports.
- We reviewed one complete year of monthly reports submitted to the JCF to determine whether they were reported in a timely manner.
- We used computer-assisted data analysis to compare the Court's electronic records during our audit period to data that we obtained from the DMV and JCF.
- We examined 26 cases from the balance due report and pending cases report and selected 16 cases for mail confirmations.

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.

APPENDIX C

HOW TO OBTAIN ADDITIONAL COPIES OF THE REPORT

To obtain copies of this report, write or visit our web page:

Office of the State Comptroller
Public Information Office
110 State Street, 15th Floor
Albany, New York 12236
(518) 474-4015
<http://www.osc.state.ny.us/localgov/>

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

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

LOCAL REGIONAL OFFICE LISTING

BINGHAMTON REGIONAL OFFICE

H. Todd Eames, Chief Examiner
Office of the State Comptroller
State Office Building - Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417
(607) 721-8306 Fax (607) 721-8313
Email: Muni-Binghamton@osc.state.ny.us

Serving: Broome, Chenango, Cortland, Delaware,
Otsego, Schoharie, Sullivan, Tioga, Tompkins Counties

BUFFALO REGIONAL OFFICE

Robert Meller, Chief Examiner
Office of the State Comptroller
295 Main Street, Suite 1032
Buffalo, New York 14203-2510
(716) 847-3647 Fax (716) 847-3643
Email: Muni-Bufferalo@osc.state.ny.us

Serving: Allegany, Cattaraugus, Chautauqua, Erie,
Genesee, Niagara, Orleans, Wyoming Counties

GLENS FALLS REGIONAL OFFICE

Jeffrey P. Leonard, Chief Examiner
Office of the State Comptroller
One Broad Street Plaza
Glens Falls, New York 12801-4396
(518) 793-0057 Fax (518) 793-5797
Email: Muni-GlensFalls@osc.state.ny.us

Serving: Albany, Clinton, Essex, Franklin,
Fulton, Hamilton, Montgomery, Rensselaer,
Saratoga, Schenectady, Warren, Washington Counties

HAUPPAUGE REGIONAL OFFICE

Ira McCracken, Chief Examiner
Office of the State Comptroller
NYS Office Building, Room 3A10
250 Veterans Memorial Highway
Hauppauge, New York 11788-5533
(631) 952-6534 Fax (631) 952-6530
Email: Muni-Hauppauge@osc.state.ny.us

Serving: Nassau and Suffolk Counties

NEWBURGH REGIONAL OFFICE

Tenneh Blamah, Chief Examiner
Office of the State Comptroller
33 Airport Center Drive, Suite 103
New Windsor, New York 12553-4725
(845) 567-0858 Fax (845) 567-0080
Email: Muni-Newburgh@osc.state.ny.us

Serving: Columbia, Dutchess, Greene, Orange,
Putnam, Rockland, Ulster, Westchester Counties

ROCHESTER REGIONAL OFFICE

Edward V. Grant, Jr., Chief Examiner
Office of the State Comptroller
The Powers Building
16 West Main Street – Suite 522
Rochester, New York 14614-1608
(585) 454-2460 Fax (585) 454-3545
Email: Muni-Rochester@osc.state.ny.us

Serving: Cayuga, Chemung, Livingston, Monroe,
Ontario, Schuyler, Seneca, Steuben, Wayne, Yates Counties

SYRACUSE REGIONAL OFFICE

Rebecca Wilcox, Chief Examiner
Office of the State Comptroller
State Office Building, Room 409
333 E. Washington Street
Syracuse, New York 13202-1428
(315) 428-4192 Fax (315) 426-2119
Email: Muni-Syracuse@osc.state.ny.us

Serving: Herkimer, Jefferson, Lewis, Madison,
Oneida, Onondaga, Oswego, St. Lawrence Counties

STATEWIDE AUDITS

Ann C. Singer, Chief Examiner
State Office Building - Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417
(607) 721-8306 Fax (607) 721-8313