



Town of Lebanon Justice Court

Report of Examination

Period Covered:

January 1, 2011 — March 31, 2013

2013M-247



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 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 Lebanon, 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 Lebanon (Town) is located in Madison County and has a population of 1,332 residents. The Town Board (Board), which comprises the Town Supervisor (Supervisor) and four council members, is the legislative body responsible for managing Town operations. The Town provides general administrative services for its residents, including the operation of a Town Justice Court (Court).

The Town operates the Court with one Justice and no court clerk. The Justice's principal duties involve administering moneys received from fines, bail, and surcharges. The Court has jurisdiction over vehicle and traffic, criminal, and civil proceedings brought before it. The Justice also is required to report monthly to the Office of the State Comptroller's Justice Court Fund (JCF) on the financial activities of the preceding month, and must remit all moneys collected to either the JCF or the Town Supervisor.¹

Justice John Bartlett was the Court's Justice from January 2011 until his resignation on March 1, 2013. The Town appointed an interim, Justice Ronald Hailston,² to oversee Court operations until the permanently-appointed Justice began serving on May 1, 2013. During the audit period, the Court's revenue and bail collections totaled over \$10,000.

In March 2012, the Board audited Justice Bartlett's 2011 records and identified concerns including the lack of any reconciliation. The Board later noted a decline in the Court's 2012 revenues; specifically, no revenues were reported for May, June, or July. Additionally, the Board requested that Justice Bartlett attend the October 2012 Board meeting, which he did not attend.

Because of their concerns, the Board contacted our office on October 16, 2012, to request an audit. After several attempts to contact Justice Bartlett, we met with him on March 1, 2013, at which time he told us he was resigning, effective that same day.

Objective

The objective of our audit was to determine if the Justice was properly accounting for all Court moneys and to review the Court's internal controls over financial operations. Our audit addressed the following related question:

¹ Excludes pending bail

² We reviewed Interim Justice Hailston's Court records for activity occurring in March 2013, and found no exceptions. Therefore, this report focuses on the internal control procedures and records of Justice Bartlett.

- Are internal controls over Court operations appropriately designed and operating effectively to ensure the proper accounting and timely reporting of financial transactions?

**Scope and
Methodology**

We examined the Court’s records for the period January 1, 2011, to March 31, 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 planned to initiate corrective action.

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

Justices are responsible for adjudicating cases brought before their Court, and for accounting and reporting of Court-related financial activities. The Justices must ensure that an effective system of internal controls is in place for properly safeguarding cash and other resources, processing financial transactions in a timely manner, and maintaining complete and accurate accounting records. Justices are responsible for depositing all moneys collected in a timely manner, issuing appropriate receipts, reconciling Court collections to corresponding liabilities, and reporting Court transactions to the JCF. Routine reconciliation of bank accounts enables the Court to verify the accuracy of its financial records. Justices are also responsible and accountable for all moneys received by their Courts. At any point in time, the liabilities of the Court, such as bail held on pending cases and unremitted fines and fees, should equal the Justice's available cash. Justices must also report traffic ticket dispositions to the New York State Department of Motor Vehicles (DMV).

Internal controls over the Court's operations were not operating effectively to allow for proper accounting and reporting of activities. Justice Bartlett failed to account for all moneys received, resulting in a \$2,295 shortage in the Justice's account. The Justice did not prepare monthly bank or accountability reconciliations, issue appropriate receipts for all money received, deposit money intact or in a timely manner, file accurate and timely financial reports, maintain an accurate listing of bail, properly report ticket dispositions to the DMV, or close his bank account as required when he resigned.

Bank Reconciliation and Accountability Analysis

Court Justices do not account for financial transactions on a fiscal year basis, and are not required to complete annual financial statements as other municipal operations do. Instead, they are required to account for cash receipts and disbursements from month to month, and determine accountability (by preparing a list of Court liabilities and comparing it with reconciled bank balances) on a monthly basis. The Justice is personally responsible for moneys received by the Court and may be liable for money paid to the Court that is lost or stolen.

Justice Bartlett maintained a single Court bank account for bail, fines, and fees and used a computerized software program to track cases, issue receipts, and report to the JCF. However, he did not prepare bank reconciliations or perform accountability analyses on a monthly basis. Therefore, we performed a cash count of Court funds not deposited and prepared an accountability analysis as of March 1, 2013 (Table 1).

Table 1: Accountability Analysis at March 1, 2013, for Justice Bartlett

Court Assets	Amount
Cash on Hand	\$1,103
Bank Account Balance	\$1,895
Less: Outstanding Checks	(\$2,665)
Less: Bank Charge for NSF Posted in March ^a	(\$25)
Bad Check Reported to JCF ^b	\$25
Total Court Assets (Available Cash)	\$333
Court Liabilities	
Bail Held by the Court	\$1,250
Fines and Fees Received in the Mail on March 1, 2013 ^c	\$603
Unreported Fines and Fees Received Prior to February 2013 ^d	\$890
Overpayment to Supervisor for Previous Reports	(\$76)
Due from Town (Bank Charges)	(\$39)
Total Known Liabilities	\$2,628
Assets Less Liabilities/Cash Shortage	(\$2,295)

^a There were insufficient funds in the bank account to cover checks Justice Bartlett wrote to the Supervisor.

^b JCF refunds moneys to the courts in limited circumstances (e.g., for a check returned due to insufficient funds)

^c These fines were turned over to the Interim Justice, who deposited and reported them to JCF.

^d Justice Bartlett deposited checks and money orders which were not recorded in the cashbook or reported to JCF, but the funds were used to pay the Supervisor upon leaving office.

Upon his resignation on March 1, 2013, Justice Bartlett had a cash shortage totaling \$2,295. Our bank deposit analysis found the primary cause of the shortage to be a pattern of not depositing all cash collected and a pattern of cash substitution.³ Because the Justice never provided a proper accountability analysis to the Board and controlled all key financial functions of the Court, the missing cash was not detected.

Using deposit records provided by the bank, we identified checks and money orders not recorded or reported to the JCF, totaling \$890. These funds are still payable to the Supervisor. Justice Bartlett used the \$890 and bail money previously collected to pay the Supervisor upon leaving office. On March 31, 2013, the bank account balance was \$794 overdrawn. As a result, Justice Bartlett was unable to close the bank account, as required, when he left office.

We also found evidence of Justice Bartlett using his personal bank account for Court activity. Justice Bartlett made two separate transfers, totaling \$550, from his personal bank account into the

³ Substitution of cash occurs when checks and money orders are not recorded as received, but are deposited in place of other collections received in cash that are properly recorded but not deposited.

Court bank account.⁴ He told us that, for convenience purposes, he would deposit fines and fees into his personal bank account and then transfer the funds into the Court bank account. However, he did not provide us with written support for these transactions to confirm his representation.

Additionally, we reviewed all disbursements from Justice Bartlett's Court bank account and identified a \$140 cash withdrawal on April 2, 2012. Justice Bartlett told us that this was because he overpaid \$140 to the Supervisor for collections in January 2011; however, his response did not adequately explain the withdrawal since an overpayment requires either a check from the Supervisor to the Court's account, or a credit on the subsequent month's remittance to the Supervisor. When we brought this to Justice Bartlett's attention, he said that he was not sure why he made the withdrawal and that he must have made a mistake.

Lastly, in response to unpaid ticket notices sent by Interim Justice Hailston and confirmation letters⁵ sent by us, four individuals claimed to have already paid their fines. The individuals were unable to provide evidence of the payments, totaling \$1,245, and Justice Bartlett's accounting and deposit records did not have documentation of receipt of these payments. Because of lack of evidence that these payments were actually received, we have not included them in the accountability analysis. If the Court did in fact receive these payments, the cash shortage would be increased by \$1,245.

Because Justice Bartlett did not prepare monthly bank reconciliations and accountability analyses, a cash shortage occurred without detection.

Issuing and Recording of Receipts

Justices are required to issue receipts to acknowledge collection of all moneys paid to the Court. A duplicate receipt must be prepared immediately as moneys are received, one part to be retained by the Court as evidence of collection and the other part given to the person making the payment. These duplicate receipts should be pre-numbered and issued consecutively. Each receipt should document the date, the person paying, the amount paid, the form of payment (cash, money order, or check), and the purpose. If computerized receipts are generated, the software controls must prevent the alteration of receipt numbers. If they can be altered, then pre-numbered receipts should be used instead.

⁴ These transfers are factored into the Court Accountability Analysis (Table 1).

⁵ A confirmation letter is sent to an individual on record to verify that the outstanding balance is accurate and due.

Justice Bartlett received all moneys remitted to the Court and used a computerized software program to generate sequentially-numbered receipts with two parts, one retained by the Justice and the other for the defendant. However, the Justice had the ability to override any of the assigned receipt numbers. Because of this weakness and the Justice's sole control of all aspects of the financial transaction, we reviewed all receipt numbers entered into the computer system during the audit period and found that Justice Bartlett entered 32 receipts with no receipt number in the computer system for the funds received.

The lack of consecutive numbers and the ability to override receipt numbers significantly increases the risk that money could be lost or stolen.

Timely and Intact Deposits

Justices are required to deposit all moneys received by the Court into official bank accounts as soon as possible, but no later than 72 hours after the date of receipt. Moneys received must be deposited intact (in the same amount and form, as received). It is essential that the Justices establish control procedures that require accurate identification of the type of collections deposited so that they can be easily traced to cash receipt and computerized deposit records.

Justice Bartlett did not always make intact or timely deposits. During our audit period, 23 deposits, totaling \$9,288, were made to the Justice's official bank account. In some instances, deposits were held for extended periods of time, longer than the 72 hours allowed, placing these moneys at risk of theft or loss.⁶ For example:

- Justice Bartlett recorded cash receipts totaling \$845 between May 26, 2011, and July 28, 2011, but did not deposit any cash until August 31, 2011. It took 97 days after the first collection to deposit the moneys into the Court's bank account. When the deposit was made, it totaled \$710, \$135 less than the amount recorded as collected.
- On June 22, 2011, the Justice deposited two checks, totaling \$200 received on April 28 and May 26, 2011 (55 days and 27 days late).
- Records indicate \$1,876 in cash was received between April 3, 2012, and February 28, 2013; however, the Justice did not deposit any cash until February 28, 2013. This deposit only included \$613 in cash. Therefore, the deposit for the first cash receipts collected was made over 330 days late and the entire cash deposit total was \$1,263 short.

⁶ The total number of timing discrepancies could not be determined because of insufficient documentation in Court records.

In addition, Interim Justice Hailston told us that when he first took over following Justice Bartlett's resignation, he found seven checks, totaling \$1,257, in the manual file folders and in Justice Bartlett's desk drawer. Interim Justice Hailston promptly deposited these checks and recorded the receipts into the Court's records.

The failure to make timely and intact deposits significantly increases the risk that money could be lost or stolen.

Bail Records

When bail is imposed, Justices are responsible for keeping track of it. Bail for pending cases is similar to a customer deposit. It is posted by defendants (or by others on their behalf) generally to guarantee their appearance in Court to answer charges, after which the bail money is returned. Consequently, it is essential that the Justice maintains a record of all bail. This list, at a minimum, should include all open bail held by the Court at any point in time and should indicate the disposition of previously held bail.

Justice Bartlett did not maintain a perpetual bail listing. On March 1, 2013, Justice Bartlett told us that he did not believe any bail was currently outstanding at the time. The Court's procedure is to retain bail documentation in the manual case folders. However, the Justice did not segregate the manual case folders to identify cases with bail documentation and cases that did not involve bail. As a result, the Justice could not readily produce a summary showing all bail moneys on hand. We reviewed all case folders and identified pending bail held by the Court for three individuals, totaling \$1,250.

Monthly Reports and Remittance of Funds

Accurate and timely reports provide a means for effectively monitoring Court operations. Town and JCF officials can analyze such reports and investigate any unusual or incomplete information. The late filing or non-filing of required reports can indicate operational problems. Justices are required to submit monthly reports of Court activities to the JCF by the tenth day of the succeeding month. The Court also is required to submit all moneys reported as collected to the Supervisor by the tenth of the following month. The JCF determines the final distribution of Court funds for the Town based on the Justice's monthly report filed; JCF notifies the Supervisor of the amount the Town should retain. In addition, Justices are responsible for ensuring that payments for vehicle and traffic tickets are reported accurately to DMV. Disposed case information reported to DMV is evidence that that fines and surcharges are paid.

Justice Bartlett did not submit monthly reports to the JCF or funds collected to the Supervisor in a timely manner. Of the 27 reports that the Justice should have filed while in office, 16 were late and the last eight reports, August 2012 through March 2013, were not filed.

In addition, it took between 20 and 112 days to submit eight of the remittances to the Supervisor. For example, Justice Bartlett did not remit to the Supervisor the funds that he collected from October 2012 through January 2013 until February 28, 2013.⁷

We reviewed the DMV's pending-ticket log, as of January 2013, which showed that 152 tickets were pending from Justice Bartlett's time in office. Justice Bartlett told us that even though he collected fines and surcharges for traffic violations, he did not review or update the DMV information to indicate that the ticket was disposed (paid). Because the Justice did not adequately reconcile DMV reports with current Court caseload activity, unpaid tickets may not have been enforced in timely manner. In addition, since Justice Bartlett did not update DMV information to indicate that tickets were paid, DMV information was not accurate. For example, the DMV log showed 152 pending tickets, but Court records indicated that at least 49 tickets were reported to JCF as disposed as of July 31, 2012.⁸

Recommendations

1. Town officials should take action to recover any moneys that are due to the Town and/or New York State.
2. The Justice should perform accountability reconciliations monthly, and investigate and resolve any irregularities.
3. The Justice should maintain adequate books and records, including an acceptable numbering system for receipts; record all receipts received in a timely manner; and maintain a complete bail list, and adequate deposit composition records.
4. The Justice should deposit all funds in a timely manner as prescribed by law.
5. The Board should ensure that Justice Bartlett's outstanding reports due to the JCF are promptly submitted and DMV records are updated to reflect the disposed ticket information.

⁷ The February remittance also included fines and fees collected in February 2013.

⁸ The Court did not report to JCF the August 2012 through January 31, 2013, disposed tickets.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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

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Oct. 2, 2013

Attn: Chief Auditor Rebecca Wilcox, Regional Office
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Re: Town of Lebanon Justice Court Report of Examination 2013M-247

Dear Chief Wilcox:

Our town is in receipt of the Town of Lebanon Justice Court Report of Examination for the Period Covered: January 1, 2011 to March 31, 2013 2013M-247.

We concur with the findings and await your final report.

Please contact me with questions.

Yours truly,

James Goldstein, Supervisor
Town of Lebanon

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of this audit was to determine whether the Justice's Court liabilities reconciled with the available cash and whether the Court's internal controls were appropriately designed and operating effectively to help ensure accurate, proper, and timely depositing, recording, and reporting of Court moneys for the period January 1, 2011, to March 31, 2013.

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

- We interviewed Justice Bartlett, Interim Justice Hailston, the Supervisor, and a Board member concerning the Court's operations. These discussions allowed us to understand the Court's internal control system and to make an assessment as to whether or not the established controls were sufficient to ensure resources were protected from possible loss or improper use, to minimize the risk of errors and irregularities, and to ensure compliance with applicable rules and regulations regarding the Court's operations.
- We reviewed the Court's financial and other records relating to the collection and subsequent disposition of fines and bail. These records included bank statements, deposit compositions (copies of deposit slips, deposited checks, and money orders), canceled checks, cashbooks, monthly reports to the JFC, manual and computerized case files, and disbursement records. Using this information, we sought to determine if the receipts were properly recorded and deposited, the moneys were remitted in a timely and accurate manner, and the internal controls over these functions were adequate.
- We counted the Court cash not deposited at March 1, 2013, and determined whether the total available cash (on-hand and in bank) was sufficient to cover the Court's liabilities.
- We compared information from JCF, from January 2011 to July 2012, and from the DMV, as of January 13, 2013, to Court records. Using this information, we were able to determine whether fines, fees, and surcharges were reported, as required, to the JCF, and whether DMV records were updated for disposed tickets.
- We obtained information from the Madison County Sheriff's Department pertaining to bail transfers to the Court.
- We contacted 35 defendants by mail to confirm information in the Court's records. We randomly selected 20 individuals from the DMV pending ticket listing (who had no evidence of payment or dismissal per Court records) and 10 individuals from the Court's cashbook to verify the accuracy of the amounts paid in cash. We also selected five additional individuals from the DMV pending ticket listing who have multiple traffic violations while Court records showed fewer violations.⁹

⁹ This test was to address the risk that the Justice could send a fine notice to an individual for all of their DMV violations, collect the funds, and later reduce the violations (and associated fines) in the court records.

- We reviewed disbursements in the bank statements to ascertain whether all disbursements were for proper purposes.
- We verified the appropriateness of deleted records within the computerized case files.

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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