



# Town of Rosendale Justice Court

## Report of Examination

Period Covered:

January 1, 2012 — December 31, 2013

2014M-232



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**

October 2014

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 Rosendale, 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 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*

# Introduction

## Background

The Town of Rosendale (Town) is located in Ulster County and has a population of approximately 6,000. The Town is governed by an elected Town Board (Board) consisting of the Town Supervisor (Supervisor) and four Board members. The Supervisor is the Town's chief executive and chief fiscal officer. The Board is responsible for overseeing the Town's financial activities, including the Justice Court (Court). As part of this responsibility, the Board must ensure that an annual audit is conducted of the Town Justices' (Justices) records and dockets.

The Town has two elected Justices: Justice Robert Vosper and Justice William Pape. Justices are required to account for cash received by the Court and reconcile their cashbooks (accounting records) and bank balances as of the end of each month. Justices should ensure that payments for fines are received and accurately recorded and that deposits are made timely. The Court employed a Court clerk (clerk) and a part-time assistant clerk to assist with Court operations.

The Justices are required to report monthly to the Office of the State Comptroller's (OSC) Justice Court Fund (JCF) on the financial activities of the preceding month and must remit all moneys collected to the Supervisor. The disposition of each moving violation is reported to the New York State Department of Motor Vehicles (DMV). During the years 2012 and 2013, the Court reported \$500,514 in fines, fees and surcharges to the JCF.

We found that the clerk was able to conceal the theft of approximately \$5,620 from the Court. We referred the theft to the Ulster County District Attorney's Office and the clerk was charged with one count of grand larceny in the third degree, which is a class D felony.

## Objective

The objective of our audit was to examine Court receipts. Our audit addressed the following related question:

- Were Court receipts properly recorded and deposited?

## Scope and Methodology

We examined Court records and procedures for the period January 1, 2012 through December 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 is included in Appendix B of this report. Town officials agreed with our

recommendations and indicated they planned to initiate corrective action.

**Comments of  
Local Officials and  
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 the accounting and reporting of Court-related financial activities. Justices must ensure that an effective system of internal controls is in place to properly safeguard cash and other resources, ensure that financial transactions are processed in a timely manner and maintain complete and accurate accounting records. Justices are also responsible for ensuring that all moneys collected are deposited in a timely manner, performing reconciliations of Court collections to corresponding liabilities and reporting Court transactions to the JCF and the DMV, when applicable.

We found that not all Court cash receipts were properly recorded and deposited. In addition, bail accounts had insufficient balances to cover liabilities, partial payments were not properly recorded and monthly accountability analyses were not performed. We determined that the Court's liabilities exceeded the Justices' total cash as of December 31, 2013, resulting in a shortage of \$5,480.

These discrepancies occurred because the Justices did not properly monitor the clerk's activities or implement good internal controls. The clerk was responsible for collecting cash receipts, issuing receipts, updating the case file in the computer system, depositing cash receipts, preparing monthly reports to the JCF, reporting Court transactions to the DMV and performing monthly reconciliations. A part-time assistant Court clerk also collected receipts and recorded traffic payments in the computerized records but was not responsible for depositing cash receipts, preparing monthly reports to the JCF or performing monthly reconciliations.

Because the clerk controlled all phases of the Court's cash collection process with little oversight by the Justices, she was able to conceal the theft of approximately \$5,620 from the Court. In addition, bail accounts have insufficient balances to cover their liabilities of \$5,480. Further, due to insufficiencies in recordkeeping, the Board was unable to complete the annual audit.

### Missing Cash Receipts

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 held. In addition, the Justices need to provide sufficient oversight of Court clerks handling cash.

Justices are required to account for cash receipts and reconcile their

cashbooks and bank balances as of the end of each month. Justices should ensure that payments for fines are accurately recorded and deposited timely and should perform a monthly accountability of money they hold by preparing a list of Court liabilities and comparing it to reconciled bank balances.

We found a cash shortage totaling \$5,620 for 38 missing cash receipts that were neither recorded nor deposited. We also found that the clerk tried to conceal the theft of \$2,860 of this shortage by using bail money from one Justice's account to make up 14 of 38 missing receipts.

On October 23, 2013, the clerk issued two checks from Justice Pape's bail account (for \$1,840 and \$1,020) totaling \$2,860. Check records contained inaccurate information that misrepresented this transfer of funds. For example, the clerk wrote "wrong account" in the memo section of the two checks to indicate to the Justice that they were issued to correct a deposit into the wrong account. Therefore, the Justice believed the two checks were being drawn to correct a deposit error. However, "bail revoke" was written by the clerk on the two check stub descriptions to indicate that bail funds were being returned to a defendant. We reviewed the case history records and found that bail of \$3,000 was previously returned to that defendant on November 25, 2008, even though it remained as an outstanding liability on the Current Bail Defendants Report.

The \$1,840 was deposited into Justice Pape's fine account. We reviewed the composition of the bank deposit slip and computer generated deposit slip for the October 23, 2013 deposit. The \$1,840 check was not listed on the deposit slip. Instead, the deposit slip had listed receipts for nine different cases totaling \$1,840, comingled with other October 2013 receipts.

We obtained the original receipts of these nine cases and found that the clerk had collected these receipts between July 17, 2012 and September 24, 2013. She never deposited the receipts and had not recorded them in the cash book prior to October 2013 (see Figure 1). Similarly, the \$1,020 check issued to Justice Vosper's fine account included five case receipts, of which four were dated June, July and September 2012, more than a year before the October 2013 deposit (see Figure 1).

**Figure 1: Deposit Slip Compositions for October 23, 2013**

Pape's Fine Account				Vosper's Fine Account			
Receipt #	Amount	Receipt Date	Check #1040	Receipt #	Amount	Receipt Date	Check #1041
Currency	\$860	Various		Currency	\$750	Various	
4067	\$190	10/22/2013		13016	\$360	10/23/2013	
3332	\$200	7/17/2012	\$200	13015	\$150	10/22/2013	
4065	\$175	10/22/2013		13005	\$150	10/16/2013	
4064	\$45	10/22/2013		13007	\$150	10/16/2013	
4063	\$3	10/21/2013		13008	\$150	10/16/2013	
3334	\$200	7/18/2012	\$200	12953	\$260	9/8/2013	\$260
4002	\$120	9/17/2013	\$120	12297	\$285	6/18/2012	\$285
4016	\$130	9/18/2013	\$130	12352	\$225	7/12/2012	\$225
4021	\$120	9/24/2013	\$120	12369	\$100	7/17/2012	\$100
4022	\$70	9/24/2013	\$70	12441	\$150	9/13/2012	\$150
4025	\$20	9/24/2013	\$20	<b>Total Deposit</b>	<b>\$2,730</b>	<b>Check Total</b>	<b>\$1,020</b>
3966	\$80	8/27/2013	\$80				
3965	\$900	8/27/2013	\$900				
4066	\$200	10/22/2013					
<b>Total Deposit</b>	<b>\$3,313</b>	<b>Check Total</b>	<b>\$1,840</b>				

In addition, there were 24 other cash receipts totaling \$2,760 that were never properly recorded or deposited. Some of these cases were never entered into the cashbook, some were listed as paid on the case file but not included in the cashbook, and others were only partially recorded in the cashbook.

As a result, Court receipts were short \$5,620 during the audit period. The clerk told OSC auditors and investigators that she wrote the two checks to make up the missing money until she could pay it back and that there were other receipts that were collected but not deposited that she intended to pay back.

We also found that the Court lacked written procedures requiring prompt and accurate reporting and depositing of receipts, segregation of cash receipt duties and periodic reviews by the Justices. Without adequate procedures, internal controls over the cash receipt process are insufficient.

### Accountability Analysis

It is important for Court personnel to verify the accuracy of financial records and establish control over cash by reconciling the bank accounts monthly. They also should compare cash on hand and on



deposit in the bank to detailed lists of Court liabilities (outstanding bails and amounts due to JCF and others). This comparison is referred to as an accountability analysis. Performing bank reconciliations and accountability analyses are critical procedures to ascertain the status of moneys held by the Court. Court liabilities, such as bail held on pending cases and unremitted fines and fees, should equal a Justice's available cash. The documentation of a bank reconciliation and analysis of liabilities helps to ensure that the court is appropriately addressing its custodial function.

Neither Justice performed bank reconciliations or accountability analyses, nor did the clerk perform them. Monthly accountabilities could have helped to identify these discrepancies. Also, the Justices did not ensure that accounts contained sufficient funds to satisfy liabilities. The Justices were aware of their responsibilities but told us that they trusted the clerk to maintain accurate records. The clerk told us that she did not understand how to perform a proper bank reconciliation and did not feel she was given sufficient training and guidance.<sup>1</sup>

As a result, bank accounts were not properly reconciled, which resulted in incorrect cash balances and unreconciled differences. Lack of oversight by Justices and incomplete audits by the Board resulted in missing funds not being detected, inaccurate records and fine and bail accounts that did not have sufficient funds to satisfy their liabilities.

## **Bail Shortages**

In certain cases, bail is levied on defendants to help ensure future Court appearances to answer charges against them. Bail is returned when the case has been adjudicated or may be used by the defendant to pay any fines and fees imposed by the Court. Justices must maintain an appropriate record of all bail received and disbursed, indicating when the bail was paid, by whom and for whom. The receipt and disposition of bail should be recorded promptly after the transactions occur to ensure that Court records are complete and up-to-date.

We compared the bank balance to the known liabilities for each Justice as of December 2013 and found that Justice Pape's bail account was \$4,845 short and Justice Vosper's bail account was \$635 less than its liabilities. Included in Justice Pape's shortage was the \$2,860 of bail funds that were fraudulently deposited into the two fine accounts.

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<sup>1</sup> The Justices and clerks were not aware of the reconciliation form contained in OSC's *Handbook for Town and Village Justices and Court Clerks* to check and oversee the collection and recording of Court funds.

Figure 2: Bail Account Cash Shortages as of December 31, 2013			
	Justice Pape	Justice Vosper	Total
Current Bail Defendants Report	\$27,564	\$40,653	<b>\$68,217</b>
Adjusted Bank Balance	\$19,374	\$34,968	<b>\$54,342</b>
Bail Account Shortages	(\$8,190)	(\$5,685)	<b>(\$13,875)</b>
Plus: Bail Returned Nov. 2008 and May 2012	\$3,000	\$5,000	<b>\$8,000</b>
Bail Turned Over to Town March 2012	\$250	\$50	<b>\$300</b>
Unissued Check for Return of Bail	\$95	\$0	<b>\$95</b>
Corrected Bail Account Shortages	(\$4,845)	(\$635)	<b>(\$5,480)</b>

Although the Justices were aware that bail accounts had insufficient balances to cover bail liabilities, no actions were taken by the Justices to monitor and ensure that differences were calculated, investigated and resolved. The Justices told us that the bail accounts had deficient balances from prior justices that were carried forward.<sup>2</sup>

As a result of these deficiencies totaling \$5,480, funds are not available to meet liabilities for which the Court is responsible.

## Partial Payments

A justice may allow a defendant to pay fines and surcharges in partial payments, similar to a customer accounts receivable. In order to properly account for the anticipated transactions, a record of these partial payments should be maintained to identify the amounts owed and collected to date. The receipts should be deposited timely and reported to the JCF in the month the amounts are collected. To ensure accuracy, payments should be recorded promptly in a supplemental record of partial payments.

We found 24 money orders and checks for partial payments totaling \$2,125 (that were not deposited) stapled to five case files. Those payments had not been recorded and no records were maintained of amounts owed and collected to date in a supplemental record of partial payments.

According to the clerk, the files were special circumstance cases for which the Justice agreed to accept partial payments over a period of time. The partial payment receipts were not recorded or deposited. The clerk told us that she did not know how to record partial payments in the system and held the payments in the case files until all moneys

<sup>2</sup> At the end of a justice's term, he or she is required to transfer all pending cases, and any moneys received on those cases, to the succeeding justice. The justice must also file a final report with the JCF reporting all activity and remitting any fines and fees due and close all bank accounts.

were collected. All five cases had not been fully collected and no records were maintained of amounts owed and collected to date.

As a result, the Court had no record of partial payments received and therefore, had no records to identify the amounts owed and collected to date. One money order for \$100, dated October 15, 2013, became uncollectable as it was marked void after 90 days. Four checks and 18 money orders, totaling \$2,015, were issued in 2013 and possibly stale dated. Only one of the checks, in the amount of \$10, was issued in 2014. Without proper records, the risk of payments being lost or stolen substantially increase. Some of the payments became stale dated and uncollectable while attached to the case files, resulting in lost revenue.

### **Annual Audit**

Town justices are required to present their records and dockets to their governing board for audit at least once each year. After the board audits, or hires someone to audit, the financial reports and court reports, the town clerk should enter the results of that audit into the board's minutes.

The Board used the checklist made available by OSC to audit the Court's records for 2011 through 2013. Due to insufficient accounting records presented by the Justices, the Board was unable to properly complete their audits. The deficiencies may have been found and corrective action could have been taken if the audits had been properly completed. As a result of these deficiencies, the theft of Court funds was not identified.

### **Recommendations**

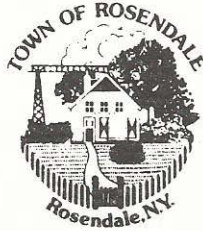
1. Town officials should take action to recover any moneys due to the Town or New York State.
2. The Justices should monitor Court activities, including the segregation of the clerks' duties.
3. The Justices should ensure that bank reconciliations and accountability analyses are prepared monthly. All cash on hand and on deposit in the bank should be compared to a listing of Court liabilities. Differences should be promptly investigated and corrective action taken.
4. The Justices should maintain a current and complete list of all bail held and disbursed.
5. The Justices should promptly record and deposit all partial payments allowed and received by the Court.

6. The Board, during its annual audit, should verify that the Justices are complying with all rules and regulations concerning the financial reporting and recordkeeping requirements of the Court.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

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



PO Box 423  
Rosendale, NY 12472

(845) 658-3159  
Fax (845) 658-8744

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Jeanne L. Walsh  
Rosendale Town Supervisor

October 24, 2014

Tenneh Blamah  
Chief Examiner of the Local Government and School Accountability  
Office of the State Comptroller  
33 Airport Center Drive, Suite 103  
New Windsor, NY 12553

Dear Ms. Blamah,

The Town Board of the Town of Rosendale has reviewed the Draft Report of Examination for the Town of Rosendale Justice Court. The Town Board appreciates your identifying the problems that exist in the management and handling of finances by the Justice Court staff.

The Town Board takes very seriously the evidence of missing monies and receipts. The Town Board is in the process of developing a plan of action that will provide more oversight and accountability for the Justices and their staff. The corrective action plan detailing the Town Boards directives to the Justice Court will be forthcoming.

The Town Board of the Town of Rosendale accepts the Draft Report of Examination for the Town of Rosendale Justice Court for period covered: January 1, 2012 – December 31, 2013, 2014M-232.

Thank you,

Jeanne L. Walsh  
Supervisor

## **APPENDIX B**

### **AUDIT METHODOLOGY AND STANDARDS**

Our audit objective was to determine whether Court receipts were properly recorded and deposited for the period January 1, 2012 through December 31, 2013. To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed the Justices and the clerks to gain an understanding of Court operations.
- We obtained information electronically from the DMV, the JCF and the Court's records and compared the information to determine if cases were accounted for properly.
- We followed up on various samples of the discrepancies identified.
- We traced all bank deposits from the bank statement and deposit slip copies back to the cashbook and manual receipt books for both Justices for September 2013 to determine if deposits were made within 72 hours of receipt.
- We compared monthly JFC reports to bank statements, bail activity reports and check registers for September 2013 to determine accountability and to verify if receipts were deposited intact and in a timely manner.
- We reviewed and compared all hand-written receipts issued from January 1, 2012 through December 31, 2013 to all cashbook deposits to determine if they were properly recorded in sequential order.
- We reviewed fine disbursements for the audit period to determine if payments agreed to the bank statements and monthly JCF reports to determine if the reports were filed in a timely manner for correct amounts and accounted for transfers between accounts.
- We compared bank statements, check registers, monthly current bail defendants reports, turned-over bail lists and case histories to determine the correct bail liability and to determine if there was evidence of stale bail (bail that has been retained for an extended period of time and not turned over to the Town general fund).
- We reviewed check registers and bank statements for January 1, 2012 through December 31, 2013 to determine whether bank reconciliations were being performed.
- We performed an accountability analysis for September 2013 and December 2013 to determine whether Court assets and liabilities balanced.
- We reviewed Board annual audits for 2011 and 2012 for findings and completeness.

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 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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