



Town of Cohocton Town Clerk Cash Shortage

Report of Examination

Period Covered:

January 1, 2008 — March 17, 2014

2014M-325



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

May 2015

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 Cohocton, entitled Town Clerk Cash Shortage. 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 Cohocton (Town) is located in Steuben County (County) and has a population of approximately 2,500 residents. The Town Board (Board) comprises an elected Town Supervisor (Supervisor) and four elected Board members and is the legislative body responsible for overall Town operations. The Board has the power to impose taxes on real property located within the Town and is responsible for the general management and control of Town finances, including the oversight of collections by the various Town departments.

The elected Town Clerk (Clerk) serves as Clerk to the Board and collects fees for licenses, permits, birth and death certificates and the sale of landfill dump tickets. The Clerk reported collections of approximately \$24,000 in 2013. The Clerk also collects Town and County real property taxes and is responsible for remitting taxes collected to either the Supervisor or County Treasurer. The Clerk is authorized and directed by the tax warrant from the County¹ to collect taxes from January 1 through April 1 each year. On average, the Clerk collects approximately \$603,000 in Town taxes and \$744,000 in County taxes each year. The Clerk has served in both capacities for over 15 years.²

Objective

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

- Did the Town Clerk record, deposit, disburse and report all money collected in a timely and accurate manner?

Scope and Methodology

We reviewed the Clerk's records and reports, including tax collections, for the period January 1, 2008 through March 17, 2014.

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 C of this report.

Comments of Local Officials and Corrective Action

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

¹ The warrant is a legal document directing the Tax Collector to collect the total tax amounts due to the Town and to the County.

² Sandra Riley has held this office since 1999.

action. Appendix B includes our comments on certain issues raised in the Town's response letter.

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 (GML). 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.

Town Clerk Cash Shortage

The Clerk is responsible for recording, depositing and disbursing all money collected in an accurate and timely manner. The Clerk has two separate bank accounts: one for Clerk fees and the other for tax collections. It is the Board's responsibility to provide adequate oversight of the Town's financial affairs, including performing annual audits of the Clerk's records.

We identified a cash shortage of \$38,136 in the Clerk's office: \$29,322 from the tax collection account and \$8,814 in Clerk fees. If the Board had conducted the required annual audit of the Clerk's records, it may have been able to detect these shortages.

The Clerk was responsible for all Town tax and fee collections, deposits and recordkeeping. No one else was involved in the recordkeeping or depositing. Our audit determined that certain tax collections were not deposited or recorded in the Clerk's cash receipts journal. We identified numerous questionable deposits that were made into the tax account and may have been made by the Clerk in an attempt to conceal the shortage in tax collections. We also identified numerous checks deposited into the Clerk's fee account that were not recorded in the cash receipts journal nor included on the Clerk's monthly report.

Tax Collections – We found personal checks, transfers from the Clerk's fee account and unidentified cash that was deposited into the tax account,³ while significant tax collections were not deposited or recorded. These deposits, as well as interest and penalties collected and deposited but never remitted to the Supervisor, enabled the Clerk to have sufficient cash in the tax collection bank account to satisfy the taxes due to the Supervisor and County Treasurer. From 2008 through 2013, the Clerk did not remit interest and penalties collected on the late payment of taxes to the Supervisor as required.

Clerk Fees – The Clerk failed to accurately record, report and disburse all collections of Clerk fees. Checks for fees such as building permits, vital records, dog licenses and park rentals were deposited in the Clerk's (fees) bank account but not recorded in the cash receipts journal or included on the Clerk's monthly report to the Supervisor. Had the unrecorded check deposits been properly entered in the cash receipts journal in addition to the cash collections, the Clerk would have been accountable for more money than was actually in the

³ The shortage would have been greater without additional, questionable deposits as described under Tax Collections.

bank, and there would not be enough to cover the amounts due to the appropriate State or local agencies.

Tax Collections

The Clerk is responsible for the accurate and timely recording of tax collections in the accounting records, depositing tax collections within 24 hours of receipt⁴ and securing all money received. After tax collections are deposited, the Clerk must first remit taxes collected to the Supervisor weekly until the Town's total tax levy is satisfied and then remit any additional tax receipts to the County Treasurer by the 15th day of each month following receipt. At the end of the collection period, the Clerk is required to settle with the County Treasurer and must account for the taxes collected, amounts remitted to the Supervisor and County Treasurer, any adjustments to the tax roll and the taxes that remain unpaid. The Clerk must also turn over all interest and penalties collected on the late payment of real property taxes to the Supervisor.

When the Clerk receives a tax payment, either by mail or in person, she stamps both sections of the tax bill as paid, indicates the date of payment and the form of payment (cash or check) and then returns part of the bill to the taxpayer and retains the other part for her records. Although the Clerk retained tax receipts that showed the date and method of payment, she did not always record the tax payment in the cash receipts journal. We reviewed tax receipts retained by the Clerk and found that, during the 2010 through 2013 tax collection periods, the Clerk failed to record certain tax collections and penalties in the cash receipts journal.

Using both the tax receipts and the cash receipts journal, we compared recorded tax collections with bank deposits from 2008 through 2013. The total recorded tax collections, including interest and penalties, exceeded deposits by \$32,847, as indicated in Figure 1.

Figure 1: Recorded Real Property Tax (RPT) Collections vs. Deposits

	2008	2009	2010	2011	2012	2013	Total
Recorded RPT collections, including interest and penalties	\$1,345,073	\$1,214,178	\$1,354,047	\$1,351,748	\$1,357,862	\$1,385,064	\$8,007,972
Total tax account deposits ^a	\$1,339,878	\$1,209,203	\$1,346,627	\$1,345,792	\$1,353,162	\$1,380,463	\$7,975,125
Shortage	(\$5,195)	(\$4,975)	(\$7,420)	(\$5,956)	(\$4,700)	(\$4,601)	(\$32,847)

^a Including personal deposits made by the Clerk, unidentified cash deposits, late-payment penalties and interest earned (Figure 2) but excluding a questionable \$3,878 deposit made in December 2013, as described in the following paragraph.

⁴ New York State Town Law (Town Law)

In addition, an unidentified cash deposit for \$3,878 was made on December 12, 2013, well after the Clerk had settled the 2013 tax warrant with the County but before tax bills for 2014 were sent out to property owners. The Clerk acknowledged that the tax collection period generally ended in early April each year and that she had already settled the 2013 taxes with the County. The Clerk could not explain why she would have been collecting tax payments in May nor demonstrate that the cash represented actual tax payments. The Clerk initially indicated that the deposit was tax receipts collected in May 2013 that she had inadvertently placed in an envelope inside the tax roll book but did not realize her mistake until locating the envelope nearly seven months later.

On March 17, 2014, we conducted a cash count and found that the Clerk's 2014 recorded tax liabilities at that date exceeded known cash assets by \$353. Adding this shortage to the \$32,847 shown in Figure 1 and subtracting the questionable cash deposit of \$3,878, the cash deficiency for tax collections since 2008 was \$29,322.

As shown in Figure 2, during 2010 through 2013, a total of \$39,360 was deposited in the tax account comprising unidentified cash, transfers from the Clerk's fee account, the Clerk's personal checks, and interest and penalties that were collected and deposited but not remitted to the Supervisor.⁵ These deposits allowed the Clerk to have a sufficient amount of cash in the bank to satisfy the taxes due to the Supervisor and County Treasurer. For example, 11 tax receipts from 2011, totaling \$8,343 and consisting primarily of cash, were collected but not recorded in the Clerk's cash receipts journal or deposited in the tax account. As shown in Figure 2, this amount is approximately equal to the amount of various miscellaneous deposits – none of them traceable to a paid tax bill or receipt – and the amount of unremitted interest and penalties collected during the tax year.

To cover the deficiency in the tax account, the Clerk deposited personal checks; made unexplained, unrecorded cash deposits; and made inappropriate transfers from the Clerk fees account in order to have enough cash on deposit to pay the Supervisor and County Treasurer.

Figure 2 shows the amounts and sources of moneys deposited into the tax account in lieu of recorded tax collections that were not deposited, or moneys deposited in the tax account but not remitted to the appropriate entities.

⁵ The shortage would have been greater without the questionable deposits.

Figure 2: Cash Shortage Concealment – Tax Account^a

	2010	2011	2012	2013	Total
Taxes paid and recorded but not deposited	\$9,571	\$8,343	\$8,774	\$13,253	\$39,941
Deposits in lieu of tax collections:					
Personal checks deposited	\$1,676	\$1,751	\$3,098	\$6,027	\$12,552
Unidentified cash deposits	\$200	\$266	\$300	\$1,450	\$2,216
Unjustified Clerk account transfer		\$266		\$567	\$833
Deposits in the tax account not properly remitted:					
Due to other governments ^b			\$822	\$893	\$1,715
Interest earned but not remitted to the Supervisor	\$33	\$25	\$25	\$16	\$99
Late-payment penalties not remitted to the Supervisor	\$7,116	\$5,964	\$4,421	\$4,444	\$21,945
Total cash/checks deposited to cover tax account shortage	\$9,025	\$8,272	\$8,666	\$13,397	\$39,360
Untraceable funds ^c	\$546	\$71	\$108	(\$144)	\$581
<p>^a We were unable to compare the detail of bank deposits to the tax collection records for 2008 and 2009 because the bank deposit compositions for these years were not available for our review.</p> <p>^b Checks from individuals, payable to either the County or the Village of Cohocton, that were deposited into the Clerk's tax collection account but could not be traced to a paid tax bill</p> <p>^c These amounts were apparently deposited in the tax account; however, due to a lack of records, we could not determine the dates and sources.</p>					

When we asked the Clerk to explain the personal checks deposited into the tax collection account, she stated they were for the payment of her own property tax bills. However, during each of these years, the Clerk's tax bill had already been recorded as paid with another personal check or cash. Further, the personal checks deposited at the end of the tax collection period did not match the amounts of the Clerk's tax bills.

The Clerk also stated that interest and penalties were not remitted to the Supervisor because there was not enough money in the tax collection bank account to pay them when they were due. Had the Clerk deposited all tax money collected, there should have been sufficient funds to remit interest and penalties to the Supervisor at the end of the collection period.

Clerk Fees

The Clerk's office collects fees for a variety of purposes, including dog licenses, sporting licenses, marriage licenses and birth and death certificates. All money collected by the Clerk should be remitted to the State, the County or the Town Supervisor monthly. It is essential for the Clerk to account properly for all transactions by issuing press-

numbered duplicate receipts,⁶ accurately recording amounts collected in the cash receipts journal, depositing receipts intact and within three business days after the total exceeds \$250,⁷ and remitting money to the appropriate entities. The Clerk should also perform a monthly accountability analysis, comparing cash on hand and on deposit to known liabilities, to ensure that the correct amount of cash is available to satisfy liabilities.

The Clerk failed to issue duplicate receipts and did not record all fees collected and deposited. She did not issue receipts for revenues from building permits, park rental fees and fees associated with her role as the Town's registrar of vital statistics. The Clerk issued receipts only when using the New York State Department of Environmental Conservation (DEC) software system, and for dog licenses, in which case the license was the receipt of payment. However, the Clerk did not retain the daily transaction reports (the Clerk's copies of receipts) generated by the DEC system and, further, building permits and marriage and death certificates were not press-numbered to ensure all permits and certificates sold were accounted for. The lack of such controls prevents a proper reconciliation of receipts to deposits and helped to conceal the apparent cash shortages that our audit identified.

We reviewed deposit compositions⁸ to determine if all fees paid to the Clerk were recorded in the cash receipts journal and reported on the Clerk's monthly report to the Supervisor. We identified \$8,809 in checks for fees that were deposited in the Clerk's fee account but were not recorded in the cash receipts journal or included on the monthly report.⁹ Had the unrecorded deposits been properly entered in the cash receipts journal, the Clerk would have been accountable for more money than was actually in the bank, which would not be enough to cover amounts due to the appropriate State or local agencies.

After conducting a cash count and preparing an accountability analysis of the Clerk's fee account as of March 17, 2014, we determined there was an identifiable cash shortage totaling \$8,814, as shown in Figure 3:

⁶ General Municipal Law

⁷ Town Law

⁸ Deposit compositions are provided by the bank and include an authenticated deposit slip and images of the checks made in a particular deposit. We reviewed compositions from April 1, 2008 through March 17, 2014. Compositions prior to April 2008 were not available.

⁹ Comprising 78 dog licenses totaling \$1,186, 29 transfer station transactions totaling \$1,470, 20 park rentals totaling \$980, 19 vital record transactions totaling \$641, 10 miscellaneous (unknown transactions) totaling \$4,218 and nine building permits totaling \$314

Figure 3: Clerk Fees Accountability as of March 17, 2014

Cash on hand and in the bank	\$467
Less: Liabilities recorded as of March 17, 2014	\$472
Less: Unrecorded liabilities 2008-2014	\$8,809
Total identified liabilities	\$9,281
Clerk Fee Account Shortage	(\$8,814)

Because many cash collections were not documented with a receipt, we could not determine if there was additional money the Clerk should have had on deposit, but, given the pattern of consistent theft from the tax account, it is likely there was more money missing. Given the lack of records, we could not quantify the amount for the Clerk account.

On August 13, 2014, at the end of our fieldwork, we met with the Clerk to discuss the apparent shortages in the tax collection and Clerk accounts. The Clerk said she had substituted checks for cash collections, had not recorded all collections and had used the tax money collected for personal expenses. She indicated that she had intended to pay this money back to the Town but was unable to. After our meeting, the Clerk notified the Board via email on August 17, 2014 that she was taking a leave of absence from her position with no given date of return.

On September 4, 2014, the New York State Police arrested the Clerk on charges of grand larceny from the Town. The Clerk subsequently pled guilty to grand larceny, was sentenced to four months in jail and five years of probation and paid \$36,000 to the Town.

Board Oversight

Town Law requires that the Board annually audit the Clerk's records and reports or hire a public accountant for that purpose. In conducting its reviews, the Board should determine whether effective procedures are in place to ensure that the Clerk properly accounts for, records and deposits money collected on a timely basis. For the tax collection process, the review should include analyzing the settlement sheet (showing the Clerk's settlement with the County Treasurer) and asking the County Treasurer if there are any concerns with the Collector's records or accounting at the time of settlement. Collection records also should be reviewed to ensure the Supervisor received all late-payment penalties that were collected.

The Board did not audit the Clerk's records and did not review the Clerk's real property tax settlement with the County or the collection reports to determine the amount of penalties collected. Additionally,

revenue from interest and penalties on the late payment of taxes had not been reported on the Town's annual financial report¹⁰ since 2007.

Had the Board performed its oversight duties as required, it may have been able to detect certain errors and irregularities that could have led to the detection of the apparent fraudulent activity we identified. Even without such an audit, if the Supervisor had questioned the complete lack of revenue from late payment of taxes, the shortage could have come to light much sooner.

Recommendations

The Clerk should:

1. Remit tax collections, including penalties, to the Supervisor on a weekly basis. The Supervisor should ensure that penalties remitted to him agree with penalties recorded on tax collection reports.
2. Issue duplicate receipts, recording the date, amount and form of payment, for all money received, where no other form of receipt is available. The Clerk should retain all evidence of receipt.
3. Accurately record all collections in the cash receipts journal and deposit all collections in the appropriate bank account intact and in a timely manner.
4. Prepare an accountability analysis each month comparing cash on hand and in the bank with liabilities due to the Supervisor and other State and local agencies.

The Board should:

5. Perform an annual audit of the Clerk's records, including tax collections.
6. Review tax penalty and Clerk fee revenues for reasonableness.
7. Consult with Town counsel to determine if it is feasible to recoup the missing money.

¹⁰ Each year local municipalities are required to report all of their financial activity for the fiscal year to the Office of the State Comptroller (OSC). This reporting is done using the Annual Update Document (i.e., annual financial report) format provided by OSC.

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

The Town officials' response to this audit can be found on the following pages.

TOWN OF COHOCTON

PO Box 200

Atlanta, NY 14808

585-534-5100

Supervisor: Jack Zigenfus

Board Members:

Jeffrey Wise, Deputy Supervisor
Cheryl Deusenbery
Milton LeVesque
David Simolo

Town Clerk: Martha Hall
Highway Supt: Brian Kuhn
Assessors: Joanne Damboise
Mark Densmore
Brenda Wise
Justices: Ronald Snyder
David Domm

March 9, 2015

RE: TOWN OF COHOCTON TOWN CLERK CASH SHORTAGE

To Whom It May Concern:

As Town Supervisor for the Town of Cohocton, I am the Chief Fiscal Officer for the Town. I have reviewed the New York State Comptroller's Report of Examination for the period covered from January 1, 2008 to March 17, 2014. What follows is an outline of checks and balances that existed for the period covered. It seems there were oversight duties at the Town, County, and State levels that might have led to the detection of fraudulent activity. Unfortunately, these checks and balances fell short. Therefore, this response will be followed in the near future by a document listing corrective actions that the Town of Cohocton has already implemented or will implement to protect the Town in the future.

During my tenure as Cohocton Town Supervisor, the Town has employed the services of an outside public accountant. Each month our financial reports and records are sent to the accountant for review. The Town counts on its public accountant to flag any discrepancies or irregularities. The accountant assists the Supervisor with the preparation of the budget and also prepares the annual financial report to the New York State Comptroller. The Cohocton Town Board, in turn, reviews the public accountant's annual financial report that goes to the New York State Comptroller. This provides two sets of eyes (the Town and the Public Accountant) to review the monthly reports and the annual financial report to the New York State Comptroller.

See
Note 1
Page 14

In fact, there are really three sets of eyes reviewing the annual report when you consider that the New York State Comptroller's Office itself reviews the annual report. It is assumed that any irregularities in the annual report would have been reported back to the Town of Cohocton once the annual report was reviewed by the Comptroller. I would like to state for the record that I have been the Supervisor for the Town of Cohocton for almost fourteen (14) years and have never had a "risk assessment" conducted by the State Comptroller's Office. I have been informed that these "risk assessments" have been done for municipalities by the Comptroller's office every 3 to 4 years in the past.

See
Note 2
Page 14

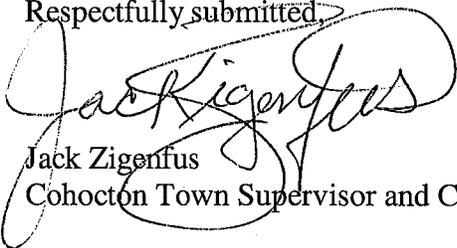
Much of the Clerk's fraudulent activity revolved around the tax collection process. The Town of Cohocton is not privy to and has never seen a settlement sheet with the Steuben County Treasurer. At no time did the Steuben County Treasurer indicate there were any irregularities in tax collections. In Steuben County, the Steuben County Treasurer's Office notifies the Cohocton tax collector (the Cohocton Town Clerk) of a date and time to bring her books to the County Treasurer's office. This constitutes a fourth set of eyes (the Steuben County Treasurer) reviewing the records of the Town Clerk. At no time was the Cohocton Town Board notified of any issues raised by a review of the Cohocton Town Tax Collector's books. It should be noted that it was I who initiated the beginning steps of an investigation by meeting with the County Treasurer and the New York State Police. After meeting with them we agreed that it would be in the best interest of the town to ask the Comptroller to conduct whatever audit that they felt was appropriate. Quite frankly, it would have been almost impossible to detect fraudulent activity through a review of the Town Tax Collector's tax books if she received monies by mail or in person and indicated that the tax bill was paid in full and on time while pocketing the penalty monies.

See
Note 3
Page 14

See
Note 4
Page 14

In summary, instead of laying blame on the different entities reviewing the reports and records involved in this matter, the Town of Cohocton believes that it is important to implement actions and remedies, some of which have already been implemented, that will protect to the Town from this happening again in the future. In that vein, the Town of Cohocton will be submitting a corrective action plan in the near future. In the meantime, I would like to inform you that the Town of Cohocton received \$36,000.00 in restitution on March 2, 2015. Additionally, the Town recovered \$3,881.77 that was found in cash. These funds have been placed in the Town of Cohocton 2015 budget.

Respectfully submitted,



Jack Zigenfus
Cohocton Town Supervisor and Chief Fiscal Officer

APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

The use of a public accountant to maintain Town accounting records and reports does not relieve the Supervisor of his responsibilities as Chief Financial Officer. These responsibilities include reviewing the data in the Annual Update Document (annual financial report) for accuracy and reasonableness prior to submitting it to OSC.

Note 2

OSC does not have a three- or four-year cycle for performing risk assessments. Rather, we perform on-site risk assessments when other risk factors, such as requests from local officials, indicate this service is needed.

Note 3

Interest and penalties related to late tax payments are not part of the tax warrant and, therefore, are not usually part of a county's settlement calculation. Further, the Supervisor and Board could have asked the Clerk for a copy of the settlement sheet.

Note 4

The Board is ultimately responsible for oversight of Town finances. This includes conducting an annual audit of the Clerk's records as required by Town Law. The former Clerk took advantage of lax Board oversight. An annual audit could have helped Town officials identify irregularities in the former Clerk's records and safeguard Town moneys.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Prior to the start of our audit, OSC was contacted by the New York State Police for assistance in reviewing the Clerk's activity. After initially reviewing the Clerk's records, we determined that weaknesses existed and selected the Town Clerk's office for audit. Our overall objective was to assess the adequacy the Clerk's financial operations. To accomplish our objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed the Clerk regarding practices and procedures for collecting, recording and remitting Clerk fees and tax receipts.
- We interviewed the Supervisor and the Clerk to determine the level of Board oversight.
- We reviewed cash receipts journals, daily cash reports and bank statements to verify that recorded receipts were deposited intact and in a timely manner.
- We performed a cash count of the Clerk's office to establish the amount of cash and checks on hand for comparison to the cash receipts journal.
- We reviewed all of the daily tax collection reports during the scope of our audit as well as hard copies of tax receipts to determine the total amount of tax collections processed by the Clerk and penalties collected on real property taxes.
- We reviewed tax collection bank statements and copies of canceled checks to determine if all required remittances of tax collections occurred.
- We obtained and compared all of the daily Clerk cash transaction reports to deposit compositions to determine if all deposited items were recorded and remitted appropriately.

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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