



Town of Kiantone

Town Clerk

Report of Examination

Period Covered:

January 1, 2013 — August 1, 2014

2014M-273



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

February 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 Kiantone, entitled Town Clerk. 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 Kiantone (Town) is located in Chautauqua County (County) and has a population of approximately 1,350 residents. The Town provides the following services to its residents: street maintenance, snow removal, sewer, fire protection and general government administration. Budgeted appropriations for 2014 totaled \$559,156, comprising \$247,640 in the general fund and \$311,516 in the highway fund. Operations are financed primarily by real property taxes, sales tax and State aid.

The Town is governed by the Town Board (Board) comprising four elected members and an elected Town Supervisor (Supervisor). The Board is responsible for overseeing the Town's operations, finances and overall management. The elected Town Clerk (Clerk) also acts as the Tax Collector. The Clerk is responsible for collecting real property taxes and payments for various licenses and permits, for the monthly billing and collection of sewer charges and for remitting money to the appropriate parties, including the Supervisor. For the year ending December 31, 2013, the Clerk collected \$966,616 in Town and County real property taxes and \$5,180 in other fees and charges.

Objective

The objective of our audit was to review the processes and procedures over Town Clerk operations. Our audit addressed the following related question:

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

Scope and Methodology

We examined the records and reports of the Clerk's office for the period January 1, 2013 through August 1, 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 Town 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 have taken or plan to take corrective action. Appendix B includes our comments on 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. 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 Clerk's office.

Town Clerk

The Clerk is responsible for receiving, depositing, disbursing and reporting all money collected in an accurate and timely manner. This requires maintaining complete and accurate accounting records, safeguarding the money received and disbursing that money to appropriate parties.

We found that the Clerk did not deposit all money collected. As of June 23, 2014, she had a shortage totaling \$3,147. In addition, the Clerk did not record, deposit or remit money collected in an accurate and timely manner. We also found that the Board did not provide adequate oversight of the Clerk's operations and did not conduct a thorough audit of the Clerk's records. As a result, Town money was misappropriated.

We have referred this matter to the State Comptroller's Division of Investigations for further review.

Tax Collection

New York State Town Law and New York State Real Property Tax Law set forth the legal requirements the Clerk must follow to record, deposit and remit taxes to either the Town or the County. The Clerk collects Town and County taxes pursuant to a warrant¹ from Chautauqua County and is responsible for remitting those taxes to the Supervisor at least once each week until the Town's portion of the tax levy is satisfied. All residual taxes should then be remitted to the County Treasurer by the 15th day of each month following their receipt. The Clerk is also responsible for depositing all collections within 24 hours of receipt and intact (in the same order and form as received, i.e., cash or check) and for collecting penalties from all taxpayers who pay their taxes after the penalty-free period.² The Clerk should identify the date and form of payment on the tax stub and record such in a suitable book of record.

At the end of the collection period, in April, the Clerk is required by Real Property Tax Law to reconcile the tax roll, which provides detailed information on taxpayers and their tax amounts due, with the amount collected and the amount remaining unpaid and to settle with the County Treasurer. After the Clerk has settled with the County, there should be no further account activity and the Clerk's tax bank

¹ The warrant is a summary document that states the total tax amounts due to the Town and to the County.

² No interest or penalty is due on real property taxes within the first 30 days of the Town's receipt of the tax roll and warrant from the County, which is typically in January of the tax collection period.

account balance should be zero (unless a nominal amount is needed to keep the account open).

Remittances – The Clerk did not remit tax collections to the Supervisor in a timely manner. As of June 23, 2014, the Clerk had not remitted \$1,325 in penalties and interest from the 2014 collection period to the Supervisor. In addition, the Clerk did not remit all deposits to the Supervisor at least once each week, but instead remitted once each month.

Further, for the 2013 tax collection period, the Clerk did not remit interest and penalties totaling \$342 to the Supervisor until February 14, 2014 and as of June 23, 2014 had not remitted the balance of \$1,801 in interest and penalties owed to the Supervisor. Although the Clerk reconciled the tax warrants with the County each year, the reconciliation does not include interest and penalties collected by the Clerk that are payable to the Supervisor. A reconciliation that includes the amount of interest and penalties collected is an important control that would have alerted Town officials to shortages in the Clerk's tax account.

We performed an accountability³ of the Clerk's tax collection function as of May, 31, 2014, including the 2013 and 2014 collection periods, and found a shortage of \$3,126 (comprising interest and penalties totaling \$1,801 in 2013 and \$1,325 in 2014, due to the Supervisor).

- For the 2014 collection period, tax stubs totaling \$1,325 were marked as received on March 4, 2014 and were recorded on April 21, 2014, but we found no record of deposit.
- For the 2013 collection period, tax stubs totaling \$2,669 were marked as received on March 18, 2013 and recorded on April 22, 2013. However, we found no record of deposit. Additionally, \$868 in cash was deposited on May 30, 2013, but our audit could not trace this deposit, which was made six days prior to settling with the County, to a specific tax payment. The Clerk provided no explanation of why the \$2,669 in collections was not deposited, nor of the reason for the \$868 cash deposit.

Recording and Deposit – The Clerk also did not record or deposit collections in a timely manner. We reviewed 15 reports of daily tax collections totaling \$86,000 and found that the receipts on 14 reports were recorded on average more than 17 days after the payment stub date. In one instance, payment stubs showed that \$1,867 was received

³ Comparing deposits to the tax warrants, collection reports (including penalties), unpaid tax lists and remittances

on February 3, 2014; however, this money was not recorded in the collection system until April 21, 2014 (53 days late) and was not deposited until April 25, 2014 (57 days late). The Clerk indicated she does not have enough time to count the cash privately, get to the bank and record the collections in the system. However, we found that 11 deposits containing cash were made between the recorded dates of collection and deposit (i.e., between February 3 and April 25). The Clerk provided no explanation as to why these cash receipts were not included in any of the recorded deposits.

The failure to record and deposit all money received in a timely manner leaves the Town susceptible to theft.

Clerk Fees

The Clerk is responsible for collecting payments for dog licenses, marriage licenses, sewer fees, cemetery plots,⁴ building permits and refuse (transfer station) permits. The Clerk is required to issue duplicate receipts to payees, recording the form of payment (i.e., cash or check) for every transaction if no other evidence of receipt is available. She is also required to deposit all money collected no later than the third business day after the total exceeds \$250, and intact (in the same form as received) so that specific cash receipts can be traced through the accounting records to the bank statements. The Clerk should also prepare monthly accountabilities that compare cash on hand and on deposit to detailed lists of liabilities and reconcile funds collected with the entities to which they are due, leaving a reconciled balance of zero each month. The Clerk is also responsible for preparing monthly reports detailing her financial activities and providing them to the Supervisor.

We reviewed the Clerk's monthly reports and found these reports do not provide adequate accountability of her activity because they do not include a reconciliation of liabilities with cash assets on hand and in the bank. The Clerk did not consistently prepare bank reconciliations every month, nor did we find any evidence of monthly accountabilities. Therefore, the Clerk does not identify the amounts she owes to the Supervisor and others. Without such reconciliations and accountabilities, Town officials cannot readily determine whether all collections are accounted for.

We conducted a cash count as of June 23, 2014 to establish cash on hand in the Clerk's office and performed an accountability comparing assets to known liabilities. We found a shortage of \$21⁵ which the Clerk could not explain. We also reviewed all 15 deposits exceeding

⁴ The Clerk is responsible for collecting and recording information on cemetery plot sales but turns the money over to the Town bookkeeper for deposit.

⁵ The Clerk indicated she uses one cash drawer with \$100 in petty cash for both Clerk (fee) and tax receipts.

\$250 for timeliness and found that nine receipts totaling \$5,900 were not deposited within the required three business days, averaging five days late. One deposit of \$768 was made nine days later than the required timeframe. We could not determine if three deposits totaling \$1,675, dated January 31, December 2 and December 31, 2013, were made in a timely manner because refuse (transfer station) permits were not recorded when collected but in one lump sum at the end of the month.

Annual Audit

Town Law requires the Board to complete an annual audit of the Clerk's records. An annual Board audit provides independent verification that the records are maintained in accordance with established procedures, transactions are properly recorded and cash is properly accounted for.

This is a particularly important function when the Clerk's office is mainly a one-person operation⁶ where the Clerk can receive cash payments, record the cash collections in the accounting records, disburse money and reconcile her own accounts. Without a proper segregation of these duties among different individuals, it is essential for the Board to provide adequate oversight of the Clerk's activity as a compensating control.

The Board did not provide adequate oversight of the Clerk's financial activities. While the Board's minutes indicate that an audit was completed and the records were found to be in good order, there was no evidence in the minutes or the Clerk's records⁷ to indicate the audit steps performed, the specific results and whether any corrective action was needed. Even a cursory audit by the Board should have detected that the Clerk did not do monthly bank reconciliations or accountabilities and that the tax account still had a balance well after all money should have been paid out. Therefore, Town taxpayers do not have assurance that the Board performed a thorough audit and communicated its findings to the Clerk so that she could take appropriate action.

Recommendations

The Board should:

1. Take appropriate action to recover any money due the Town.

The Clerk should:

2. Remit to the Supervisor the interest and penalties collected and due him from the 2013 and 2014 collection periods.

⁶ The Clerk told us she is assisted by a deputy clerk during the tax collection season.

⁷ Bank statements were initialed but there was no indication of what this signified.

3. Deposit all money in the bank in a timely manner.
4. Ensure that receipts are recorded in an accurate and timely manner.
5. Remit all funds collected to the appropriate entities on a timely basis.
6. Prepare monthly bank reconciliations and accountabilities.

The Board should:

7. Conduct a thorough annual audit of the Clerk's records.

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

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

The response letter refers to an attachment which we have not included here as its relevance is sufficiently explained.

TOWN OF Kiantone

Topic:

Town of Kiantone Town Clerk

Report of Examinations

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Audit Report Number: 2014M-273

Audit Response:

It is our position as the governing body of the Town of Kiantone to take the appropriate actions in reconciling and recovering all money's due the Town as stated in the Office of State Controller's report. Also, as stated and recommended in the audit report, procedural changes and accountability of funding by our town clerk and town board will be reviewed and submitted to the OSC in our CAP to follow.

Even with the issues associated with the finding of OSC's report, it is the belief of Kiantone's town board that all money's in previous years were handled and accounted for in full. Our process of performing audits has been consistent throughout the years and everything has been approved by the comptroller's office up to this point. This being said, we feel that money within the town has been handled properly but agree that improvements are needed as suggested by the OSC.

See
Note 1
Page 11

Immediate Implementation:

It was discussed and recognized by the Kiantone Town Board that due to increased duties by town clerk Melanie Hutley and also as a result of the findings by the OSC, it was decided to separate her duties and add the position of tax collector to the town budget. Therefore, a motion was made and approved at November 2014's board meeting to assign Kiantone resident Mark Marchincin CPA as our newly appointed tax collector. Mr. Marchincin's background in finance made him an obvious choice for this position (resume attached).

See
Note 2
Page 11

Recovery of Moneys due the Town of Kiantone:

As stated in OSC's report, a shortage of \$3126.00 comprising of interest and penalties was found during the 2013 and 2014 collection periods. During that period of time, Kiantone town clerk Melanie Hutley fully understood her responsibilities and accountability to the town for accurately receiving, depositing, disbursing and reporting of all money collected. Sense the distribution of OSC's report, \$1300.00 has been recovered and accounted for with an outstanding balance of \$1826.00 still due to the town. In a meeting with clerk Hutley and Kiantone budget officer Kate Valvo, we are submitting a plan to satisfy the outstanding balance by deducting \$150.00 from clerk Hutley's monthly paycheck beginning January 2015, with a final payment of \$176.00 due in December which is the final month of her elected term. In the event that clerk Hutley recovers any or all of the outstanding balance, budget officer Kate Valvo will make the appropriate reimbursement.

See
Note 3
Page 11

Respectfully,

Kevin Myers
Kiantone Town Supervisor

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APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

While the Board states that its process in performing audits has been consistent, we question the steps performed, the Board's conclusion that the records were found to be in good order and the reference to OSC approval. Even a cursory audit should have detected the problems we cite in this report.

Note 2

The Board should consult with its legal counsel to determine if the position of tax collector can be established in this manner.

Note 3

Since fees have been collected by the Clerk after our accountability date of June 23, 2014, the Board should ensure the \$1,324.75 that the Clerk said she found in her file cabinet is actually recovered money and not unreported Clerk's fees.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to review the processes and procedures of the Clerk's office and assess whether money was accurately accounted for. To achieve our audit objective and obtain valid audit evidence, we performed the following procedures:

- We interviewed Town officials and reviewed policies and procedures to gain an understanding of the cash receipts process.
- We performed a cash count of the Clerk's office to establish the amount of cash on hand and compared this count with recorded receipts.
- We performed accountabilities of the Clerk's office bank accounts to determine if available assets equaled liabilities.
- We compared recorded receipts to source documents such as property tax bill stubs, refuse transfer station permits, sewer bills and building permits.
- We compared real property tax bank deposit compositions for the period January 1, 2013 through April 25, 2014 to daily collection reports and tax payment stubs to determine if receipts were deposited intact and in a timely manner.
- We selected all tax receipts recorded on the daily collection reports after the penalty-free period that had no recorded penalty and sent confirmation letters to those individuals to determine if recorded amounts paid agreed with their confirmation of payment.
- We reviewed all Clerk bank deposit compositions for the period January 1, 2013 through June 23, 2014 to determine if deposits were made intact. We also selected all deposits greater than \$250 for the same period to review for timeliness.
- We reviewed bank statements and canceled checks to determine whether disbursements were made to the appropriate parties and in a timely manner.

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.

APPENDIX D

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AND SCHOOL ACCOUNTABILITY

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