

Village of Palmyra

Justice Court Operations

JANUARY 2020



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Contents

- Report Highlights 1**

- Justice Court Operations 2**
 - How Should the Justice Provide Oversight of Court Operations? . . . 2
 - The Justice Did Not Regularly Review Bank Statements or Require Monthly Accountabilities 2
 - The Justice Did Not Provide Adequate Oversight 4
 - What Is the Board’s Oversight Responsibility? 4
 - The Board’s Annual Audit of Court Records Was Inadequate 4
 - How Should Courts Enforce Pending Tickets? 5
 - The Court Clerk Did Not Follow Up on All Pending Cases. 5
 - What Do We Recommend? 7

- Appendix A – Response From Village Officials 8**

- Appendix B – Audit Methodology and Standards 11**

- Appendix C – Resources and Services 13**

Report Highlights

Village of Palmyra

Audit Objective

Determine whether the Justice provided adequate oversight of the Justice Court (Court) to ensure receipts were collected, deposited, recorded, reported and remitted in a timely and accurate manner.

Key Findings

- The Justice's cash balances exceeded known liabilities by a total of \$6,444 as of June 30, 2019.
- There were seven old cases recorded in the accounting system dating back to the 1990s, with outstanding held bail and restitution totaling \$1,864.
- The Board's audit of the Court records and reports was inadequate.

Key Recommendations

- Ensure that monthly accountabilities are performed, available cash reconciles with liabilities, and any differences are investigated and resolved promptly.
- Turn over excess or unidentified money to the Village or Justice Court Fund as appropriate.
- Ensure the annual audit of the Court records is sufficiently detailed and documented, includes determining whether an accountability is performed and addresses any unreconciled or unidentified cash balances.

Village and Court officials agreed with our findings and recommendations and have implemented corrective action.

Background

The Village of Palmyra is located in the Town of Palmyra in Wayne County.

The Village is governed by an elected Board of Trustees (Board) composed of the Mayor and four trustees. The Board is responsible for oversight and general management of Village finances and departments, including the Court. The Village has one elected Justice, one appointed Acting Justice and one full-time Court clerk who assists the Justice with processing cases and related financial transactions, including submitting monthly financial activity reports and traffic dispositions to various New York State agencies.

Quick Facts

Combined 2017-18 and 2018-19 Court Revenues	\$210,200
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Justice Rodman's Term Expires	December 2022
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Audit Period

June 1, 2017 – July 26, 2019

We also reviewed bail account bank balances for Justice Rodman back to 2012 to ensure the longstanding balance remained intact.

Justice Court Operations

The Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before it. The Justice's principal duties involve adjudicating legal matters within the Court's jurisdiction and administering money received from fines, bails, surcharges and civil fees. The Justice is required to report financial activities monthly to the Office of the State Comptroller's Justice Court Fund (JCF) by the tenth day of the succeeding month.¹ The Justice also reports all vehicle and traffic ticket dispositions to the New York State Department of Motor Vehicles (DMV).

How Should the Justice Provide Oversight of Court Operations?

A village justice² is responsible for maintaining complete and accurate accounting records and safeguarding all money collected by the court, which includes depositing fines and fees timely and intact and reconciling collections to corresponding liabilities. On a monthly basis, the justice should perform an accountability of funds by preparing a list of court liabilities and comparing it to reconciled bank balances and money on hand, and ensuring that differences are promptly identified and corrected. At any point in time, the recorded court liabilities, such as bail held on pending cases and unremitted fines and fees, should equal the justice's available cash. Any unclaimed exonerated bail³ should be turned over to the village pending a claim. Any other unidentified money should be reported and paid to the JCF.

The justice is generally responsible and accountable for all court activities and must ensure that an effective system of internal controls is in place so that cash and other resources are properly safeguarded, and financial transactions are properly processed and recorded in a timely manner. When a court employs a clerk, it is essential that the justice clearly delineates and segregates the clerk's duties (to the extent possible) and provides adequate oversight of clerk functions and court operations. This includes routinely reviewing court records such as bank statements, bank reconciliations, accountability analyses and the court's computerized accounting system activity.

The Justice Did Not Regularly Review Bank Statements or Require Monthly Accountabilities

The Justice maintains two bank accounts: one for fines and fees and one for bail. The Board-appointed court clerk (clerk) assists the Justice with his accounting and reporting duties. We reviewed four⁴ months of bank reconciliations and found

1 Village Law Section 4-410

2 The Village also has an Acting Justice who reported \$20 in fees collected on one case during our audit period. We focused our audit on the Village Justice's court activity.

3 Exonerated bail is bail awaiting return to the individual who posted it.

4 May, June and July 2017 and January 2019

that the clerk generally prepared accurate monthly bank reconciliations, but did not prepare accountabilities to compare cash on hand with recorded liabilities.⁵ In addition, there was no indication the Justice reviewed the bank reconciliations.

We prepared accountabilities for three months at the start of our audit period (May,⁶ June and July 2017) and the three months prior to the beginning of our audit fieldwork (November 2018 through January 31, 2019) and found that both bank accounts had cash balances that exceeded Court liabilities.

The Justice's cash on hand exceeded known liabilities by a total of \$6,444 as of June 30, 2019. The fines and fees account had a balance in excess of amounts due to JCF for June by \$1,210, and the bail account balance exceeded the total held bail recorded in the Court's computerized accounting records by \$5,234. These unidentified balances existed for many years, at least as far back as 2012.

Additionally, the clerk did not print and review the bail activity report available in the Court software, which lists the cases and the amounts of unreturned bail recorded in the system. At our request, the clerk printed the bail activity report as of March 19, 2019. This report included seven old cases with outstanding balances totaling \$1,864 (comprised of \$614 in restitution⁷ and \$1,250 in bail) dating back to the 1990s. Because these cases were so old, the clerk was unable to determine from available records whether the amounts had been repaid or were still being held. When considered with the excess fines and fees due to JCF and the unidentified bail balance, the total excess funds held by the Court were \$8,308.⁸

Because monthly bank reconciliations were not reviewed, monthly accountabilities were not prepared and the Board audit did not identify these deficiencies,⁹ the large outstanding balances remained unaddressed for many years. This created extensive risk that the excess funds could have inappropriately been removed or borrowed without detection. Because of this risk, we traced transactions into and out of the bail bank account going back to May 2012¹⁰ to ensure proper handling, and found that the unidentified balance from 2012 remained intact and did not decrease or fluctuate. However, because of the lack of accountability and tracking, most of these excess funds must be paid to the JCF or Village instead of the intended recipients.

5 This was a finding in our previous audit of the Village (No. 99M-105).

6 We reviewed the month prior to our audit period to verify starting cash balances.

7 Court officials told us that restitution was previously collected by the Court, but is now appropriately being handled by the County.

8 \$1,210 fines and fees + \$5,234 excess bail + \$1,864 aged payables (bail and restitution)

9 Refer to the section titled "The Board's Annual Audit of Court Records Was Inadequate."

10 Through December 2018

The Justice Did Not Provide Adequate Oversight

The Court clerk is responsible for collecting Court revenues, writing manual receipts, recording receipts and disbursements in the computer system, reporting ticket dispositions to the DMV, maintaining Court records (including bail reports), and preparing and making deposits. The clerk also reconciles the bank accounts. The Justice signed the monthly reports submitted to the JCF.

The Justice told us that he reviews the clerk's records weekly, including cash receipts, credit card deposits, court dockets and case files, and that he occasionally reviews the bank reconciliations and bank statements but does not document such reviews (i.e., with initials and dates).

Because the clerk controls nearly all phases of the Court's cash collection, recording and reporting processes with minimal oversight, there is an increased risk of errors and irregularities occurring and not being detected in a timely manner. Further, the Justice's failure to require and review monthly accountabilities resulted in the Court continuing to carry a large unidentified balance.

What Is the Board's Oversight Responsibility?

The board is responsible for providing adequate oversight by annually auditing the justices' records and dockets to ensure fines and fees have been collected and turned over to the proper parties as required by law.¹¹ The board can conduct the audit or contract with an independent auditor to perform the audit. The board is also responsible for documenting the audit results in its minutes.

If the board conducts the audit, its members need to understand how the Court operates, the rules and requirements for financial accountability and reporting and the types of financial records that should be maintained to meet those requirements.

The Board's Annual Audit of Court Records Was Inadequate

The Board designated one of its members (trustee) to conduct an audit of the Court's books and records on its behalf. We obtained a copy of the last three completed audit checklists, which covered three contiguous time periods from July 23, 2016 through June 16, 2019.¹² We found the Board's examination of the Court records was inadequate. The audits did not identify that the clerk did not

¹¹ Uniform Justice Court Act Section 2019-a

¹² Audit checklists were available for the following periods: July 23, 2016 – December 6, 2017; December 7, 2017 – July 18, 2018; and July 19, 2018 – June 16, 2019.

perform monthly accountabilities, print bail activity reports or identify significant unknown balances held in the bail and fines-and-fees accounts for many years.¹³

Because the Board conducted an inadequate audit, its ability to effectively monitor financial operations of the Court was diminished. Had the Board adequately audited the Court's records, it could have identified deficiencies and brought them to the Justice's attention for corrective action.

After our audit fieldwork discussions, the clerk began preparing monthly accountabilities and printing bail activity reports and provided them to the Board for audit.

How Should Courts Enforce Pending Tickets?

A justice court is responsible for adjudicating vehicle and traffic violations. Law enforcement officials issue uniform traffic tickets for vehicle and traffic infractions. The DMV tracks the tickets by adding pertinent information to its Traffic Safety Law Enforcement and Disposition (TSLED) database. When all associated fines are paid for a ticket, the court uploads the ticket's disposition to TSLED for removal from the pending ticket database.

The TSLED database produces reports that are electronically available to each local court on a monthly basis. These monthly reports provide the court with information about current pending cases including a list of all cases pending for 60 days or more, to help identify individuals who have failed to appear in court or pay their fine, for enforcement through the DMV's scofflaw program.¹⁴ There is also an annual TSLED report made available to each court in February which includes all the outstanding pending cases since their inception. These reports are tools to verify the accuracy of a court's records against the information in the State's database and to help ensure tickets are processed and enforced in a timely manner.

The Court Clerk Did Not Follow Up on All Pending Cases

The clerk reviewed the monthly TSLED reports to identify individuals who either had not appeared in court to answer their ticket or had not paid their fine for more than 60 days, and referred these cases to the DMV for enforcement through its scofflaw program. However, the clerk did not review the annual TSLED report that

¹³ At least as far back as 2012. Refer to "The Justice Did Not Regularly Review Bank Statements or Require Monthly Accountabilities."

¹⁴ The DMV Scofflaw Program allows local justice courts to notify the DMV when an individual has an unresolved traffic ticket for a 60-day period because of the failure to pay the fine or failure to appear on the court date. When this occurs, the DMV notifies and gives the individual 30 additional days to address the issue. If the individual has not taken action, the DMV suspends the individual's license until he or she addresses the outstanding ticket.

identifies all open cases since their inception and did not reconcile these cases to the Court's records to ensure they were properly reflected in the DMV records.

As of April 8, 2019, DMV records¹⁵ indicated that the Court had 1,449 outstanding pending traffic tickets. We reviewed Court records to determine the status of the pending cases¹⁶ and found that 159 cases on the pending list had not been referred to the DMV for suspension or addressed by the defendant, and were not identified and addressed by the Justice and clerk. Of the 159 cases, 112, or 70 percent, were more than five years old, dating as far back as 1981.¹⁷ For example, 12 pending tickets were issued in 1983, 10 in 1998 and 10 in 2006. Failure to routinely follow up on older pending tickets has resulted in discrepancies and potentially lost revenue that is likely uncollectible at this point.

We used our professional judgment to select 58 of the 159 pending tickets for review¹⁸ and compared these tickets to Court records to determine their status. We found that the clerk was regularly following up on and referring current outstanding cases to the DMV for license suspension and did not identify any cases that should have been referred for suspension but were not. However, we did find some discrepancies with the DMV records. For example:

- Twenty-one tickets averaged 28 years old and were listed on the DMV records as pending. These tickets were not in the Court's computerized records because they were sent to the DMV manually before electronic transmission processes were instated, and therefore need to be addressed with DMV staff and removed from the DMV records manually.
- Fourteen tickets were listed as paid in full in the Court records but were not reflected as paid in the DMV record because the dispositions were coded incorrectly in the Court's computerized records, and thus were not accurately transmitted to the DMV.
- Twelve tickets were referred to the DMV for suspension, according to the Court's records, but this status was not reflected in the DMV records.

Because the Court does not review the annual pending ticket list, errors and inconsistencies in ticket recording and reporting occurred between the Court's and DMV records and were not addressed, potentially resulting in the loss of fine revenue.

15 All pending Uniform Traffic tickets as of April 8, 2019

16 Of the 1,449 cases: 1,113 had been referred to the DMV for license suspension through the scofflaw program, 94 were not yet eligible for scofflaw, 64 were not referred because the defendants were making partial payments, seven were not on the TSLED report to prompt follow-up, six had been converted to civil judgment (four of which were also suspended) and six were paid in full after the data report was run.

17 The clerk has worked for the Village since 2000.

18 See the Methodology section in Appendix B for a description of our sample selection.

What Do We Recommend?

The Justice should:

1. Ensure that the clerk continues to perform monthly accountabilities to verify that available cash reconciles with liabilities and resolves any discrepancies in a timely manner. The Justice should document his review on the reconciliations and accountabilities (i.e., with initials and date).
2. Turn over \$1,864 in excess money to the Village and \$6,444 in unidentified money to JCF.
3. Provide thorough oversight of the clerk's financial responsibilities.
4. Ensure that the clerk reviews the annual TSLED report to verify that Court activity is accurately reflected in the Court and DMV records, and take action to directly address inconsistencies with the DMV.
5. With the assistance of the clerk, work with DMV to resolve old uncollectible tickets and remove them from DMV records.

The Board should:

6. Ensure its annual audit of the Court records is sufficiently detailed and documented, includes determining whether an accountability is performed and addresses any unreconciled or unidentified cash balances.
7. Follow up on corrective action of Court findings included in its annual audit.

The Court clerk should:

8. Continue preparing a monthly accountability that compares available cash to known liabilities, and promptly resolve any differences.
9. Review pending cases reported on the annual TSLED report to ensure they are properly reflected in both the Court and DMV records, and that eligible tickets have been referred to the DMV for license suspension.

Appendix A: Response From Village Officials

Palmyra Village and Town Courts

144 East Main Street
Palmyra, New York 14522
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January 7, 2020

Office of the State Comptroller
Division of Local Government and School Accountability
Rochester Regional Office
The Powers Building
16 W. Main Street, Suite 522
Rochester, NY 14614

The court has reviewed the Village of Palmyra Justice Court Operations Report of Examination 2019M-202 for the audit period June 1, 2017 – July 26, 2019, and agrees with its findings. Please accept this correspondence as the court's response to the report as well as our Corrective Action Plan (CAP).

Recommendations:

The Justice should:

- 1. Ensure that the clerk continues to perform monthly accountabilities to verify that available cash reconciles with liabilities and resolves any discrepancies in a timely manner. The Justice should document his review on the reconciliations and accountabilities (i.e., with initials and date). A written procedure to determine accountability was put into place on July 25, 2019, and the Justice and clerk have been trained in how to perform accurate accountabilities. The Justice now reviews monthly bank statements, reconciliations, and accountabilities and documents his review with initials and date.*
- 2. Turn over \$1,864 in excess money to the Village and \$6,444 in unidentified money to JCF. A written procedure for unclaimed and unidentified funds was put into place on July 25, 2019. Since the conclusion of the audit, the court has continued to research to identify intended recipients of previously unidentified funds. As a result, the court has forwarded those funds to the Village of Palmyra as unclaimed. As of December 1, 2019, all excess money from both the bail and fine accounts has been turned over to the Village of Palmyra and the Justice Court Fund. Monthly accountabilities now reflect that cash balances do not exceed court liabilities.*
- 3. Provide thorough oversight of the clerk's financial responsibilities. Each month the Justice will compare a random sample of cases to ensure that money received by the court is accurately receipted, recorded, deposited, and either turned over to*

the JCF or returned to the posting party, as appropriate. A monthly checklist was developed which will be included with the Board's annual audit materials.

4. *Ensure that the clerk reviews the annual TSLED report to verify that Court activity is accurately reflected in the Court and DMV records, and take action to directly address inconsistencies with the DMV.* The Justice will review the annual TSLED report and the clerk's actions taken to correct any inconsistencies and document his review with initials and date.
5. *With the assistance of the clerk, work with DMV to resolve old uncollectible tickets and remove them from DMV.* Of the 112 pending cases over 5 years old:
 - 22 have been cleared using TSLED form UT-14 (including all those from 1981 & 1983)
 - 15 were covered by scofflaws on other tickets (for example, a defendant was convicted of 1 ticket out of 2, failed to pay the fine and was therefore only scoffed on the 1 ticket)
 - 38 were reported disposed to TSLED but had not cleared the pending case report and have since been re-sent
 - 6 were referred for suspension to TSLED but did not reflect as such in the pending case report and have since been re-sent
 - 5 were covered by civil judgment, but have since been referred for suspension as well
 - A written procedure has been put into place and the clerk will continue to work on resolving the pending cases that should have been addressed. The Justice will follow up with the clerk to ensure old tickets are addressed.

The Board should: (Note: The Board's response follows the Court's response)

The Court clerk should:

8. *Continue preparing a monthly accountability that compares available cash to known liabilities, and promptly resolve any differences.* The clerk has been trained to prepare monthly accountability reports. Accountability has been performed monthly by the clerk since April 2019. A written procedure was put into place as of July 25, 2019, and the clerk will continue to prepare monthly accountability reports which are reviewed by the Justice.
9. *Review pending cases reported on the annual TSLED report to ensure they are properly reflected in both the Court and DMV records, and that eligible tickets have been referred to the DMV for license suspension.* The clerk will review the annual TSLED report, compare pending cases with the case record system, and address any inconsistencies.

The Board's response was provided to the Court via the Board's Court Liaison for inclusion in this correspondence:

6. *Ensure its annual audit of the Court records is sufficiently detailed and documented, including determining whether an accountability is performed and addresses any unreconciled or unidentified cash balances.*
7. *Follow up on corrective action of Court findings in its annual audit.*

"The Board has performed and will continue to perform an annual audit based on the supplied instructions and checklist provided by New York State to provide reasonable assurance that work performed by those individuals who handle moneys as part of their duties are properly monitored and reviewed. The annual audit will be sufficiently detailed and documented. The annual audit will include, but not be limited to, the following areas:

- Cash receipts records and supporting documents
- Cash disbursement records and supporting documents
- Bank statements and supporting documents
- Monthly reconciliations of cash book balances and bank balances
- Reports to applicable governmental agencies
- Ensuring Accountability is performed
- Follow up on any corrective action of Court findings in its annual audit

Annual Audits will be submitted to the OCA as required."

The Justice and clerk would like to express our appreciation to the audit team for their excellent direction and guidance in addressing these issues, especially the suggestions and assistance the clerk received from the Senior Examiner. OSC's efforts in identifying solutions to problems which existed far prior to the present personnel's involvement was particularly helpful. The court records are in better order and easier to maintain thanks to our having been given this opportunity for improvement.

Sincerely,

Hon. Terry C. Rodman
Palmyra Village Justice

Hon. William E. Abbott
Palmyra Associate Justice

Appendix B: Audit Methodology and Standards

We conducted this audit 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. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Village officials and employees and reviewed Court records and reports to gain an understanding of the Court's operations.
- We reviewed Board minutes and year-end documents to determine whether an annual audit of the Court was performed for the 2017-18 and 2018-19 fiscal years.
- We reviewed the available Court annual audit documentation.
- We prepared monthly bank reconciliations and accountabilities for Justice Rodman for the three months from May 2017 (the last month prior to our audit period to verify starting cash balances) through July 2017, and for November 2018 through January 2019 (most recent three months before we started our audit), to determine whether cash on hand agreed with known liabilities. We reviewed the accountabilities prepared by the clerk for June 2019.
- We prepared monthly bank reconciliations and accountabilities for Acting Justice Abbott for the period May 2017, prior to our audit period, through July 2017, and for November 2018 through January 2019, to determine whether cash on hand agreed with known liabilities. We considered the Acting Justice's activity immaterial and focused our audit findings on the Village Justice's court activity.
- Due to a large longstanding unidentified balance in the Justice's bail account, we reviewed the bail bank statements from May 2012, when the Court opened a new bank account, through December 2018, to determine whether the activity in the account was appropriate and to verify that the unidentified balance remained intact and did not decrease or fluctuate over those years. We matched deposits to the corresponding payments for the return of bail, restitution and bail poundage.¹⁹
- We requested and received a report directly from the DMV of all pending uniform traffic tickets. The report included 1,449 pending cases as of April 08, 2019. We tested the accuracy of the DMV pending-ticket report by reviewing court records (TSLED reports and case files, with notations of actions taken), to determine that 159 tickets were pending that had not been submitted to the DMV scofflaw program, disposed after the data report was run, or for which defendants were not making partial payments. Using our professional judgment, we selected a sample of 58 of the 159 pending

¹⁹ A fee of up to 3 percent of the amount of cash bail deposited with the Court in connection with a criminal action or proceeding over which the Court retains jurisdiction

tickets and compared them to Court records. We selected the 58 cases by sampling current cases with appearance dates in 2018 and 2019, and old cases for the period of 1983 through 2012.

- We compared electronic data received directly from the JCF on April 23, 2019 to DMV data received on April 8, 2019 and reviewed all cases with differences in reported information. We also compared JCF data to the Court's software records as of April 10, 2019 and reviewed the cases with differences. We reviewed all cases with differences from the beginning of our audit period to the dates that the information was provided, with the exception of cases with payments reported to JCF but not recorded in the Court's computerized cash book; we used professional judgment to select and test 25 of these cases.
- We randomly selected a sample of 25 dismissed cases and used professional judgment to select 14 additional dismissed cases and reviewed the tickets to determine whether the cases had valid documented reasons for dismissal.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). 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.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of 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 the CAP available for public review in the Clerk-Treasurer's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lgmg

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/localgov/pubs/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/localgov/academy/index.htm

Contact

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