



Town of New Albion Justice Court Operations

Report of Examination

Period Covered:

January 1, 2011 — April 2, 2014

2014M-161



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	2
INTRODUCTION	3
Background	3
Objective	3
Scope and Methodology	3
Comments of Local Officials and Corrective Action	3
JUSTICE COURT OPERATIONS	5
Recommendations	8
APPENDIX A Response From Local Officials	10
APPENDIX B Audit Methodology and Standards	13
APPENDIX C How to Obtain Additional Copies of the Report	14
APPENDIX D Local Regional Office Listing	15

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

August 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 New Albion, entitled Justice Court Operations. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

The Town of New Albion (Town) is located in Cattaraugus County and has a population of 1,972 residents. It is governed by a five-member elected Town Board (Board) comprising a Town Supervisor and four council members. The Board is responsible for the general management and control of the Town's financial affairs. The Town provides various services to its residents, including street maintenance, snow plowing and general government support. For the 2014 fiscal year, budgeted appropriations totaled \$855,869, which were funded primarily by property taxes, sales taxes and State aid.

The Board also has oversight responsibilities with respect to the Town Justice Court (Court). The Court has jurisdiction over vehicle and traffic, criminal, civil and small claims cases brought before it. The Town operates its Court with an elected Justice and an appointed court clerk. The Justice's principal duties involve adjudicating legal matters within the Court's jurisdiction and administering money collected from fines, bail, surcharges, civil fees and restitution. The prior Justice was in office from May 2009 through December 31, 2013. The current Justice was elected for the term beginning January 1, 2014. The prior court clerk was appointed from November 2009 through December 20, 2011, which is when the current clerk was appointed. In 2013, approximately \$23,000 in fines and fees were collected.

Objective

The objective of our audit was to review the processes and procedures for the Court's financial operations. Our audit addressed the following related question:

- Are internal controls over the Court appropriately designed and operating effectively?

Scope and Methodology

We examined records and reports of the Court for the period January 1, 2011 through April 2, 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 B of this report.

Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our recommendations and indicated they have taken or plan to take 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 Operations

Justices are responsible not only for adjudicating cases brought before them, but also for the accounting and reporting of all the Court's related financial activities. The New York Codes, Rules and Regulations require the Justices to maintain complete and accurate accounting records, reconcile cash activity, maintain separate bank accounts, deposit cash in a timely manner and report Court activity accurately and in a timely manner. For each case brought before the Court, the Justices must maintain a separate case file and unique index number, as well as a cash book that chronologically itemizes all receipts and disbursements. Such records must include all relevant case information including the date of appearance, fees and fines imposed and amount collected. New York State Finance Law requires the Justices to forward all fines, penalties and forfeitures received to the Justice Court Fund (JCF).

The prior Justice did not establish adequate internal controls over the Court's financial operations. She did not prepare monthly accountabilities and did not deposit cash receipts in a timely manner, properly account for bail money held by the Court or submit the required monthly reports to JCF in a timely manner. Further, the Board did not properly audit the prior Justice's records and reports or document that such an audit occurred in the Board minutes. As a result, there is an apparent overage of \$8,802 from the prior Justice. The current Justice, who was in office for less than one month when we began our onsite fieldwork, had not yet taken corrective action to address these control weaknesses.

Accountability – Each month, the Justice should verify the accuracy of his or her financial records and perform an accountability for the money held by preparing a list of Court liabilities and comparing it with reconciled bank balances. At any point in time, the liabilities of the Court, such as bail held on pending cases and unremitted fines and fees, should equal the Justice's available cash. Periodic analyses should identify the source and amount of all moneys held in the Justice's accounts and should detect any errors so that corrective action can be taken in a timely manner.

Neither Justice performed a monthly accountability analysis. After the prior Justice filed her last report with JCF in December 2013 she issued two checks to the current Justice totaling \$10,432 which represented the remaining money in her Court bank accounts. We prepared an accountability analysis for December 31, 2013 and found

an \$8,802¹ overage. The overage remained the same for the current Justice as of February 11, 2014. Without monthly accountabilities, there is an increased risk that money paid to the Court could be lost or stolen or errors could occur and not be detected in a timely manner.

Our examination found no documentation to explain the \$977 fine and fee overage, and the records were not adequate to account for the bail overage.

Bail Records – The receipt and processing of bail can involve significant amounts of money for the Court; therefore, an accurate and up-to-date record of all bail money received is essential. Bail for pending cases is posted by or on behalf of defendants generally to guarantee appearance in Court to answer charges, after which the bail money is returned. In some instances, bail amounts can remain with the Court for long periods of time. Therefore, Justices should maintain a record of all bail held to enable verification of a Court’s liabilities. The receipt and disposition of bail should be recorded in the bail records promptly after the transactions occur to ensure that the record is complete and up-to-date. When cash balances are reconciled at the end of each month, the bail records should agree with the bail amount identified in the Justice’s monthly cash summary reports and the amount of bail held in the bank.

The prior Justice maintained two outstanding-bail lists, but neither agreed with the \$9,440 in the bail bank account at December 31, 2013.² We found supporting documentation for \$1,600 in outstanding bail and \$15 in bail poundage that was not properly transferred to the bank account for fines and fees when it was reported to JCF, leaving an unidentified balance of \$7,825.

The Court later identified \$7,500 of the remaining balance as bail posted in 2004 and 2007. These cases were transferred to other courts in 2006 and 2009. Although bail is usually transferred when the case is transferred, the Court did not maintain documentation to that effect and is in the process of confirming with the other courts whether the bail was transferred. The current Justice continues to maintain two bail lists. The failure to maintain adequate bail records and reconcile them with reconciled bail bank account balances increases the risk that errors and omissions would not be detected and corrected in a timely manner.

¹ Fines and fees of \$977 and bail of \$7,825

² We compared activity between the two bail lists and identified \$500 in bail that was reported on the manual bail list but not on the computerized list.

Segregation of Duties – Well-designed controls ensure adequate oversight of the court clerk’s financial duties, particularly when duties are not segregated. Such controls ensure that complete and accurate accounting records are maintained, cash activity is reconciled to the corresponding liabilities, and cash received is deposited and recorded in a timely manner.

The Justices did not adequately segregate the court clerk’s duties or establish adequate procedures for reviewing her work. The court clerk opened the mail, received payments and recorded the payments and was also able to adjust and delete payments from the computer with no oversight by the Justices. Because the Justices did not review these transactions they would not detect discrepancies between amounts collected and recorded. Due to these weaknesses, the risk is increased that errors or irregularities could occur without being detected or corrected.

Monthly Reports and Remittance of Funds – Justices are required to submit a monthly report³ of Court activities to the JCF by the 10th day of the succeeding month. We reviewed the monthly reports, totaling \$87,458, filed by the Justices and their corresponding remittances for January 2011 through January 2014. Of the 37 monthly reports reviewed, 16 reports with remittances totaling approximately \$39,400 were not timely. For example, the August 2011 report for \$985 was due on September 10, 2011 but the check was dated October 12, 2011. The prior Justice’s failure to file reports and submit fines and fees collected in a timely manner delays the corresponding allocation and payment of Court revenues to the appropriate parties, including the Town, and increases the risk of recordkeeping and reporting errors.

Depositing – The New York Codes, Rules and Regulations require Court personnel to deposit all money received into the Justice’s Court bank accounts as soon as possible, but no later than 72 hours after receipt, exclusive of Sundays and holidays. Deposits must also be intact.⁴

We reviewed 790 receipts totaling more than \$86,000 and found that 143 receipts (18 percent) totaling \$16,594 were deposited between two and 36 days late. We also reviewed deposit compositions for eight months⁵ totaling \$14,528. In a deposit from October 2013, there was a personal check written by the prior Justice for \$53, indicating that the deposit was not intact and the check was substituted for \$53

³ The current court clerk prepares the monthly report.

⁴ In the same form (cash, check) as paid

⁵ May, June and August 2011; March, June and December 2012; October and November 2013

collected in cash. All other deposits appeared to be intact; however, in August 2011, a money order for \$245 was received but recorded as \$225 in the cash book with no record of an overpayment or refund check issued. The failure to properly record and deposit Court receipts intact and in a timely manner increases the risk that money collected could be lost or stolen.

Annual Audit – The Board should perform an annual audit of the Justice’s records to ensure that the Court is properly recording and reporting transactions and accounting for moneys received. We found the Board did not properly audit or document an audit of the Justice’s court records. The Town contracted with a certified public accountant to perform the 2012 audit.⁶ However, no report was presented for our review or noted in the Board minutes. For prior years, the Supervisor stated that the Board had performed the annual audit. However, there was no indication of what the Board had reviewed or when the audit was performed. Without documentation of the Board’s audit steps in the minutes of Board proceedings, including the results of any audits performed and required corrective action, Town taxpayers do not have assurance that the Board performed a thorough audit and communicated its findings to the Justice for corrective action.

Recommendations

The Justice should:

1. Prepare a monthly accountability analysis for all moneys held by the Court. Any differences should be promptly investigated and, if necessary, corrective action taken.
2. Determine the source of the excess \$8,802 in the fine and bail bank accounts. Any unidentified moneys should be remitted to JCF and any unclaimed exonerated bail should be remitted to the Town Supervisor. Bail unclaimed six years after exoneration becomes the property of the Town.
3. Maintain adequate bail records to determine the amount of bail held by the Court at any given date. The amount of bail held should be incorporated into the monthly accountability analysis.
4. Segregate the court clerk’s responsibilities or establish procedures for the routine review of the court clerk’s records and the JCF monthly report.

⁶ An audit for 2013 had not yet been completed.

5. Submit monthly reports to the JCF by the 10th day of the succeeding month, as required, with any fines and fees as appropriate.
6. Ensure that all money is deposited in a timely manner and intact, and accurately recorded.
7. Present his records to the Board for audit.
8. The Board should document its audit steps, the results of any audits conducted, and required corrective action in the minutes of its proceedings.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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

Town of New Albion

Lloyd Chilson, Supervisor

Rose M. LaQuay, Clerk
Michael Weishan, Councilman
Daniel Goss, Councilman

Nathaniel Widrig, Dep. Hwy. Supt.
Dale Rogan, Councilman
Thomas Young, Councilman

August 15, 2014

Office of the State Comptroller
Jeffrey D. Mazula, Chief Examiner
295 Main Street, Suite 1032
Buffalo, NY 14203-2510

RE: Town of New Albion Justice Court Operations
Period Covered January 1, 2011 – April 2, 2014
2014M-161

Dear Mr. Mazula,

The Town of New Albion wishes to express their gratitude to the Office of the State Comptroller and the auditors for their assistance through the audit process. Upon reviewing the audit findings the Town Board agrees with the audit findings and has already put a corrective action plan in place. Please accept this correspondence as both response and corrective action plan.

Recommendations:

1. Prepare a monthly accountability analysis for all moneys held by the Court. Any differences should be promptly investigated and, if necessary, corrective action taken.
Corrective Action Plan: A monthly report of all moneys is presented to the Town Board at each monthly meeting.
2. Determine the source of the excess \$8,802 in the fine and bail bank accounts. Any unidentified moneys should be remitted to JCF and any unclaimed exonerated bail should be remitted to the Town Supervisor. Bail unclaimed six years after exoneration becomes the property of the Town.
Corrective Action Plan: All unidentified moneys will be remitted to the Town at the next Justice monthly report September 2014.
3. Maintain adequate bail records to determine the amount of bail held by the Court at any given date. The amount of bail held should be incorporated into the monthly accountability analysis.
Corrective Action Plan: Bail records will now be added to the monthly report to the Town Board.
4. Segregate the court clerk's responsibilities or establish procedures for the routine review of the court clerk's records and the JCF monthly report.
Corrective Action Plan: The Town Justice now reviews the activities of the Court Clerk on a weekly basis.
5. Submit monthly reports to the JCF by the 10th day of the succeeding month, as required, with any fines and fees as appropriate.
Corrective Action Plan: Monthly reports to the JCF are now submitted by the deadline.
6. Ensure that all money is deposited in a timely manner and intact, and accurately recorded.
Corrective Action Plan: All monies are now deposited timely and intact.
7. Present his records to the Board for audit. The Board should document its audit steps, the results of any audits conducted, and required corrective action in the minutes of its proceedings.


14 Main Street
Cattaraugus, NY 14719
Phone: 716-257-3661 Fax: 716-257-3270
Town Highway Garage: 716-257-3331

August 18, 2014

Corrective Action Plan: A monthly report is now distributed to Town Board members at each monthly meeting, and an annual audit is planned for the regular January meeting each year following the recommended audit worksheet provided by the auditor, or referred to a local accountant for completion.

The Town Board believes and feels the Comptroller's Office will agree that all recommendations have been addressed and shortcomings corrected to better strengthen procedures within the Justice Court so that the taxpayers of New Albion can be assured controls are in place for the safeguarding of funds.

Sincerely,


Lloyd Chilson
Supervisor
Town of New Albion

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard Town assets. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: financial oversight, cash receipts and disbursements, purchasing, and payroll and personal services.

During the initial assessment, we interviewed appropriate Town officials, performed limited tests of transactions and reviewed pertinent documents such as Board minutes and financial records and reports. After reviewing the information gathered during our initial assessment, we determined where weaknesses existed and evaluated those weaknesses for the risk of potential fraud, theft and professional misconduct. We then decided upon the reported objective and scope by selecting for audit those areas most at risk. We selected internal controls over the Court's financial operations for the period January 1, 2011 through April 2, 2014.

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

- We interviewed Town officials to determine if policies and procedures were in place for Court operations.
- We reviewed accounting records to determine if they were complete, accurate and up-to-date.
- We compared recorded cash receipts and disbursements with supporting documentation such as case files, bank statements, deposit compositions, canceled check images and reports to the JCF.
- We verified that transactions as detailed on the bank statements were recorded in the Court's records, were for legitimate Court-related purposes and were supported by appropriate documentation.
- We performed reconciliations of the Justice's bank statements and compared them with known liabilities based on bail records, cash receipt books, cash disbursements records, canceled checks and JCF reports.
- We verified that fines on the tickets agreed with duplicate receipts, the cash receipt journal and bank deposits.

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 C

HOW TO OBTAIN ADDITIONAL COPIES OF THE REPORT

To obtain copies of this report, write or visit our web page:

Office of the State Comptroller
Public Information Office
110 State Street, 15th Floor
Albany, New York 12236
(518) 474-4015
<http://www.osc.state.ny.us/localgov/>

APPENDIX D
OFFICE OF THE STATE COMPTROLLER
DIVISION OF LOCAL GOVERNMENT
AND SCHOOL ACCOUNTABILITY

Andrew A. SanFilippo, Executive Deputy Comptroller
Gabriel F. Deyo, Deputy Comptroller
Nathalie N. Carey, Assistant Comptroller

LOCAL REGIONAL OFFICE LISTING

BINGHAMTON REGIONAL OFFICE

H. Todd Eames, Chief Examiner
Office of the State Comptroller
State Office Building - Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417
(607) 721-8306 Fax (607) 721-8313
Email: Muni-Binghamton@osc.state.ny.us

Serving: Broome, Chenango, Cortland, Delaware,
Otsego, Schoharie, Sullivan, Tioga, Tompkins Counties

BUFFALO REGIONAL OFFICE

Jeffrey D. Mazula, Chief Examiner
Office of the State Comptroller
295 Main Street, Suite 1032
Buffalo, New York 14203-2510
(716) 847-3647 Fax (716) 847-3643
Email: Muni-Buffalo@osc.state.ny.us

Serving: Allegany, Cattaraugus, Chautauqua, Erie,
Genesee, Niagara, Orleans, Wyoming Counties

GLENS FALLS REGIONAL OFFICE

Jeffrey P. Leonard, Chief Examiner
Office of the State Comptroller
One Broad Street Plaza
Glens Falls, New York 12801-4396
(518) 793-0057 Fax (518) 793-5797
Email: Muni-GlensFalls@osc.state.ny.us

Serving: Albany, Clinton, Essex, Franklin,
Fulton, Hamilton, Montgomery, Rensselaer,
Saratoga, Schenectady, Warren, Washington Counties

HAUPPAUGE REGIONAL OFFICE

Ira McCracken, Chief Examiner
Office of the State Comptroller
NYS Office Building, Room 3A10
250 Veterans Memorial Highway
Hauppauge, New York 11788-5533
(631) 952-6534 Fax (631) 952-6530
Email: Muni-Hauppauge@osc.state.ny.us

Serving: Nassau and Suffolk Counties

NEWBURGH REGIONAL OFFICE

Tenneh Blamah, Chief Examiner
Office of the State Comptroller
33 Airport Center Drive, Suite 103
New Windsor, New York 12553-4725
(845) 567-0858 Fax (845) 567-0080
Email: Muni-Newburgh@osc.state.ny.us

Serving: Columbia, Dutchess, Greene, Orange,
Putnam, Rockland, Ulster, Westchester Counties

ROCHESTER REGIONAL OFFICE

Edward V. Grant, Jr., Chief Examiner
Office of the State Comptroller
The Powers Building
16 West Main Street – Suite 522
Rochester, New York 14614-1608
(585) 454-2460 Fax (585) 454-3545
Email: Muni-Rochester@osc.state.ny.us

Serving: Cayuga, Chemung, Livingston, Monroe,
Ontario, Schuyler, Seneca, Steuben, Wayne, Yates Counties

SYRACUSE REGIONAL OFFICE

Rebecca Wilcox, Chief Examiner
Office of the State Comptroller
State Office Building, Room 409
333 E. Washington Street
Syracuse, New York 13202-1428
(315) 428-4192 Fax (315) 426-2119
Email: Muni-Syracuse@osc.state.ny.us

Serving: Herkimer, Jefferson, Lewis, Madison,
Oneida, Onondaga, Oswego, St. Lawrence Counties

STATEWIDE AUDITS

Ann C. Singer, Chief Examiner
State Office Building - Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417
(607) 721-8306 Fax (607) 721-8313