



Town of Conesus

Justice Court

Report of Examination

Period Covered:

January 1, 2012 — April 1, 2013

2013M-140



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 |
| Oversight | 5 |
| Timely Depositing | 9 |
| Financial Reports | 9 |
| Annual Audit | 10 |
| Recommendations | 10 |
| APPENDIX A Response From Local Officials | 12 |
| APPENDIX B Audit Methodology and Standards | 14 |
| APPENDIX C How to Obtain Additional Copies of the Report | 15 |
| APPENDIX D Local Regional Office Listing | 16 |

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

November 2013

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 Conesus, entitled Justice Court. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the 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 Conesus (Town) is located in Livingston County and is governed by an elected Town Board (Board), which comprises four Council members and the Town Supervisor (Supervisor). The Town provides general administrative services including the operation of a Justice Court (Court).

The Court has two independently elected Justices and one part-time Court clerk (Clerk), who oversee Court operations. The Justices are responsible for hearing civil and criminal cases, and adjudicating misdemeanors, minor violations, and traffic infractions. They impose and collect fines, fees, and bail,¹ and are responsible for reporting monthly to the Office of the State Comptroller's Justice Court Fund (JCF). Additionally, the Justices are charged with ensuring that effective internal controls are in place to safeguard Court cash and other resources. The Town collected approximately \$16,800 in fines and surcharges during the 2012 fiscal year. Justices Mahoney and Coyne presided over the Court during our audit period.

Objective

The objective of our audit was to evaluate the internal controls established over the Court's financial activities. Our audit addressed the following related question:

- Did the Justices deposit, record, and account for the Court's moneys accurately and in a timely manner?

Scope and Methodology

We examined the internal controls established over the Court's financial activities for the period January 1, 2012, through April 1, 2013.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix B of this report.

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 planned to initiate corrective action.

¹ Money deposited with the Court on behalf of defendants charged with committing crimes to guarantee their appearance in court, after which it is returned to them.

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 accounting and reporting all Court-related financial activities, and implementing effective internal controls to oversee operations. Well-designed controls ensure that adequate oversight of the Clerk's financial duties is provided, 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. Additionally, the Justices are required to report Court activity to the JCF in a timely manner. The Board is responsible for annually auditing the Justices' records or engaging the services of an independent public accountant (IPA) to perform the audit.

Our audit identified deficiencies in providing adequate oversight of Court operations including depositing, recording, reconciling, and reporting. The Justices did not sufficiently segregate the Clerk's duties or establish adequate procedures for reviewing her work. The Justices also failed to reconcile their bail records to the Clerk's accounting records, or review the information the Clerk entered into the Court's database system. Additionally, they did not ensure that all money received was deposited and recorded in a timely manner, or that monthly reports were submitted to the JCF within the time allowed. Further, because the Board failed to conduct annual audits of the Court's financial records, no one can be certain that all Court money was accurately reported and accounted for. As a result, errors and irregularities could occur without being detected and corrected, which puts public resources at risk.

Oversight

Effective internal controls over Court operations should provide that Court financial duties are distributed so that no one individual controls all phases of a transaction or that compensating controls are implemented. When segregating duties within the Court's financial operations is not practical, Justices should exercise sufficient oversight to ensure that Court personnel accurately record and report all financial transactions and maintain accurate records for any pending bail activity. It is also essential that the Justices routinely review the records generated by the Court's database management system. Such a review, if thoroughly performed, can provide additional accountability and help reconstruct events, monitor problems, and detect unauthorized changes or deletions made to the Court's accounting records.

Segregation of Duties – The Justices did not adequately segregate the Clerk’s duties or establish adequate procedures for reviewing her work. The Clerk opened the mail, received payments, and recorded all financial transactions in the accounting records. While both Justices made bank deposits and performed reconciliations of the amounts deposited and the checks disbursed to their checkbook registers, they failed to review transactions the Clerk recorded in the accounting records. 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.

Accountability – It is essential that each Justice maintain complete, accurate, and up-to-date accounting records in accordance with legal requirements and other guidance.² It is also important that monthly bank reconciliations and accountabilities are performed to accurately account for all collections, and promptly identify and correct any discrepancies.

The Justices reconciled their monthly bank balances with the amounts recorded on their monthly reports submitted to JCF. However, while the Justices kept individual records detailing the bail amounts held for pending cases, they did not reconcile those amounts with the Clerk’s recorded bail activity. Further, when the Justices returned bail to defendants, it was not always recorded in the accounting records. As a result, the accounting records showed more bail money than the Justices actually held. Additionally, because the bail records were not reconciled, the Justices were unaware that the Clerk incorrectly recorded money transferred between their bail accounts.

We reconciled the Justices’ bank statements³ with their respective bail records, cash receipt books, the Clerk’s accounting records, and JCF reports as of December 31, 2012, and found the following differences:

- Justice Mahoney’s bank balance agreed with his bail records showing that he was holding four defendants’ bail totaling \$5,500; however, the Clerk’s accounting records showed a bail balance of \$13,605. Our review revealed that the Clerk failed to record 10 bail checks totaling \$7,605 that were returned to the defendants. Additionally, the Justice’s bail account was over-stated by \$500 because the Clerk incorrectly recorded a transfer between the Justices’ bank accounts.

² See our publication *Handbook for Town and Village Justices and Court Clerks* available at: <http://www.osc.state.ny.us/localgov/pubs/jch.pdf>

³ Justice Mahoney maintained separate bail and fine bank accounts. Justice Coyne maintained one bank account for both bail and fines.

- Justice Coyne’s bank account and bail records did not reconcile to the accounting records because the Clerk failed to record one check totaling \$752 for returned bail and decreased the bail account balance by \$500 when she erroneously recorded the transfer between the Justices’ bank accounts.

These errors would have been discovered if the Justices’ bank balances were reconciled with the Clerk’s records. This lack of accountability contributed to the discrepancies identified in the Court’s accounting records. The failure to reconcile bank accounts and liabilities significantly increases the risk that errors and irregularities could occur, go undetected, and remain uncorrected. If the Justices reconciled their bank statements to the Clerk’s bail activity reports, they would likely been able to detect and correct these errors.

By not providing necessary oversight of the Clerk’s recordkeeping duties to ensure that an accurate record of pending bail activity was maintained, the Justices were unaware that the accounting records were incorrect and could not effectively identify potential errors or irregularities.

Audit Log⁴ – An effective database system requires that an audit log containing a record of activity by system or application process is maintained. The Justices should authorize any changes or deletions made to Court records and require that documentation be maintained explaining the reasons for such changes.

The Justices used proprietary software to maintain the Court’s accounting records. We found several control weaknesses with the Court system’s computer controls. Most significantly, the system allowed the user to delete or change any previously recorded entries at any time without prior authorizations or required documentation justifying the reasons for making such changes. Additionally, the Justices did not request that the software vendor change an internal setting to prevent a user from altering receipt numbers,⁵ or purchase a system upgrade that would make an audit log available.⁶

Therefore, the Clerk was able to delete previously recorded receipts or reuse prior issued receipt numbers at any time. She could also alter monthly reports even after they were submitted to the JCF and delete

⁴ A list providing information such as the identity of each person who accessed the computer system, the time and date of access, and what activity occurred including deletions and adjustments

⁵ Changing this setting would force the system to produce sequentially numbered receipts.

⁶ In lieu of purchasing a system upgrade, the Justices could maintain a manual log documenting the reason for all changes and/or deletions made within the system.

or void receipts with no requirement that she document the reasons for such changes. We obtained a back-up data file of Court activity for our audit period and identified deletions and changes the Clerk made for each Justice. For example, we found that the Clerk deleted all of the July 2012 receipts and re-entered them using an August 2012 date so these receipts would appear on the next month's JCF report. She said that she made these changes because Justice Coyne did not deposit receipts in a timely manner resulting in an insufficient bank balance to cover that month's disbursement to the Supervisor.

The Clerk did not document why she made any of the other changes we reviewed and because the changes were made several months ago, she was generally unable to recall why she made them. We attempted to determine the reasons why records were deleted, but because the Clerk prepared receipts and recorded defendant information into the Court's database system and could alter all information at any time, sufficient information (from outside sources) was not always available to explain the reasons for these changes. However, our review of the Justices' 2012 dockets, which contained hand-written notations regarding the amounts that they collected from defendants, did not disclose any discrepancies for these transactions.

Using a system that does not produce an audit log of system activity and that permits changes and deletions without prior authorization or documented justification for the changes increases the risk that errors and irregularities could occur, go undetected, and remain uncorrected. Additionally, because the system was not upgraded, the Justices were unable to provide adequate oversight of Court activities. Further, because the Justices did not require documentation showing the reasons for making changes or deletions to Court records, no one can be certain whether the records contain any errors or irregularities as a result of the Clerk's actions.

Passwords – Passwords are one of the most basic controls that can be used to mitigate the risk of unauthorized users obtaining access to an entity's computer systems. Passwords protect computer resources from unauthorized modification. Each user should have his or her personal account (user name and password) to provide accountability within the system. If users share accounts, accountability is diminished and activities cannot be traced back to a single user. When an individual's user name and password are used, related activities can be traced back to a specific individual.

The majority of all computer entries are made by the Clerk, however, the Clerk told us that one Justice uses her user name and password to make occasional computer entries and the other Justice does not use the system. Sharing passwords makes it impossible for Court officials

to determine which staff member entered and/or deleted specific transactions. Inappropriate transactions can therefore not be traced to any specific employee.

Timely Depositing

State regulation⁷ requires Court personnel to deposit all money received into the Justices' bank accounts as soon as possible but no later than 72 hours after receipt. Further, to ensure that Court receipts are properly accounted for, all money received should be promptly recorded in the accounting records.

Our review of 56 receipts, totaling more than \$14,100 that the Justices⁸ collected during our audit period, disclosed that money received was not deposited and recorded in a timely manner. Our review of Justice Coyne's receipts disclosed that none of them were deposited within the prescribed time limit; on average 32 days elapsed from the date the money was collected to the date it was deposited. Our review of Justice Mahoney's receipts revealed that 59 percent of them totaling \$5,140 were not deposited within the prescribed time-limit; on average more than seven days elapsed from date collected to the date deposited.

The failure to deposit Court receipts within the prescribed time limit increases the risk that Court personnel could fail to properly account for all money received and that money could be lost or stolen.

Financial Reports

Each Justice is required to submit a monthly report of Court activities to the JCF by the tenth day of the succeeding month.

We reviewed the monthly reports filed by both Justices for 2012. None of the 24 monthly reports reviewed were timely with the reports ranging from 12 to 80 days late. We found that the process used by the Court did not allow for any reports to be filed timely. Court is held the last two Wednesdays of the month, once by each Justice. After Court night, the Justice reviews the prior month's report and prepares the check. Since the reports are due by the tenth of the following month, reviewing and processing the reports on the third or fourth Wednesday of the month always results in the reports being filed late. The Supervisor receives written notice when reports are delinquent to encourage involvement in the oversight of Court reporting. When we contacted the Supervisor to notify her of our pending audit, she indicated that she was aware that our office was claiming that reports were not being filed timely; however, she believed it was due to an electronic issue on our end. The failure of Justices to file

⁷ The Uniform Civil Rules for the Justice Courts

⁸ We reviewed all 24 receipts totaling \$7,210 for Justice Coyne collected from January 1, 2012, through September 30, 2012, and all 32 receipts totaling \$6,899 for Justice Mahoney collected from May 1, 2012, through October 31, 2012.

reports and submit fines and fees collected in a timely manner delays the corresponding allocation and payment of Court revenues to the appropriate parties and increases the risk of recordkeeping and reporting errors.

Annual Audit

Town Law and the State's Uniform Justice Act require that town justices present their records and dockets to their governing board for audit at least once a year. The board may perform the annual audit of the justices' books and records or contract with an IPA for that purpose. Annual audits help Town officials ensure that the Court's financial transactions are properly recorded and reported, and that all Court money is properly accounted for.

The Board failed to conduct annual audits of the Justices for fiscal years 2010, 2011, and 2012. The most recently completed audit was for the 2009 fiscal year. While Town officials presented us with evidence that they paid for reviews by an IPA for the 2010 and 2011 fiscal years, they did not receive these reports as of the end of our fieldwork in April 2013.

The absence of annual audits prevents the Board from independently verifying that the Court's accounting records are complete and accurate, and ensuring that all money was properly accounted for and reported. To assist with this responsibility, our office has issued a publication entitled the *Handbook for Town and Village Justices and Court Clerks*. The publication contains sample schedules and questionnaires to assist in completing annual audits. Had the Board conducted annual Court audits, it would likely have identified the deficiencies found during our audit sooner and prompt corrective action could have been taken.

Recommendations

1. The Justices should adequately segregate financial duties in Court operations, or implement compensating controls, such as regularly reviewing the Clerk's work, when proper segregation of her duties is not practical.
2. The Justices should ensure that their bail records agree with the balances shown in the accounting records, and that any differences are resolved.
3. The Justices should request that the Court's software vendor update the Court's database management software to provide audit logs for review by the Justices and Board. In the absence of an electronic audit log, the Justices and Clerk should maintain a manual log documenting the reason for all changes and/or deletions made within the computerized financial system.

4. The Justices should ensure that unique user names and passwords are assigned to all individuals.
5. The Justices should ensure that all money is deposited in a timely manner, as required, and promptly recorded in the accounting records.
6. The Justices should submit their monthly reports to the JCF in a timely manner, as required.
7. The Board should perform timely annual audits of the Justices' books, and document evidence indicating the audit steps performed, the records reviewed, and include the results in the Board minutes.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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



TOWN OF CONESUS

Brenda Donohue, Supervisor

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Date: September 27, 2013

To: Office of the State Comptroller

From: Brenda Donohue, Conesus Town Supervisor

I do not dispute the audit findings.

The following is the plan of action to correct my failure to track the Annual Justice Audit through to completion. This CAP will be taken to the Town Board for adoption:

I will keep a checklist to record the steps of the Justice Audit, and to ensure that all steps are completed.

1. Received Justice Records from Court Clerk
2. Delivered Court Records to auditor
3. Received Justice Audit report back from auditor.
4. Paid Auditor for services
5. File results with Office of the State Comptroller, if required.
6. File results of the audit in Justice Audit folder.

Brenda Donohue

Brenda Donohue
Conesus Town Supervisor

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

As part of our audit, we reviewed the Court's internal control procedures. We obtained an understanding of these internal controls by inquiry, observation, and inspection of documents and records. Specifically, we performed the following procedures:

- We interviewed Town officials and Court employees to determine if policies and procedures were in place for Justice Court operations, including an annual audit and Board oversight.
- 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, duplicate receipts, bank statements, 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 obtained computerized data covering the audit period and analyzed it using audit software to ensure that certain operations, such as deletions of computerized records, were done for legitimate purposes. We also compared Court dockets with this data to verify the integrity of the computerized records.
- We performed reconciliations of the Justices' bank statements with their bail records, cash receipt books, Clerk's bail activity reports, and the JCF reports.
- We reviewed the Board's most recently completed annual audit of the Court's 2009 records.
- For Justice Coyne, we reviewed all 24 cash receipts collected from January 1, 2012, through September 30, 2012. For Justice Mahoney we reviewed all 32 receipts collected from May 1, 2012, through October 31, 2012. We compared these receipts to the bank deposits and monthly reports to determine whether money was deposited and recorded in a timely manner.

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