



Town of Mount Morris Justice Court

Report of Examination

Period Covered:

January 1, 2005 — June 22, 2012

2012M-129



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

January 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 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 Town of Mount Morris, 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 Mount Morris (Town) is located in Livingston County and has a population of 4,400 residents. The Town is governed by an elected Town Board (Board) consisting of the Town Supervisor (Supervisor) and four Board members. The Supervisor is the chief executive and chief fiscal officer of the Town. The Board has the overall responsibility for overseeing the financial activities of the Town, including the financial activity of the Justice Court (Court).

The Town currently has two elected Justices who are responsible for hearing certain types of civil and criminal cases, and adjudicating misdemeanors, minor violations and traffic infractions. Justices are personally responsible for all moneys received and disbursed by their Courts and for safeguarding Court resources. These responsibilities include ensuring that an effective system of internal controls is in place to properly safeguard cash and other resources; that appropriate financial reports are accurate and filed in a timely manner; that applicable laws, rules and regulations are observed; and that the work performed by those involved in the Court's financial operations is monitored and reviewed routinely. The Town had four Justices and three Court clerks during our audit period. The two current Justices and Court clerk collected approximately \$94,590 in fines and surcharges for the period January 1, 2010 to June 22, 2012.

Objective

The objective of our audit was to examine internal controls over the financial operations of the Court. Our audit addressed the following related question:

- Did Justice Court officials properly maintain complete, accurate, and timely accounting records and reports for moneys collected?

Scope and Methodology

During this audit, we examined the Court's financial operations for the period January 1, 2005 to June 22, 2012.

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 are 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 agreed with our recommendations and indicated they planned to initiate 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 Town Board to make this plan available for public review in the Town Clerk's office.

Justice Court

Justices are responsible for adjudicating cases brought before their Court and accounting for and reporting Court-related financial activities. The Justices must ensure that an effective system of internal controls is in place to provide reasonable assurance that cash and other resources are properly safeguarded, and that financial transactions are processed in a timely manner and recorded properly. To meet this responsibility, they must maintain complete and accurate accounting records and safeguard all moneys collected. Justices are responsible for depositing all moneys collected in a timely manner, reconciling Court collections to corresponding liabilities, and for reporting Court transactions to the Office of the State Comptroller's Justice Court Fund (JCF). Routine reconciliation of bank accounts enables the Court to verify the accuracy of its financial records.

Justices are also responsible and accountable for all moneys received by their Courts. 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 Justices' available cash. In addition, the Justices are responsible for providing an annual accounting to the Board. The Board is responsible for annually auditing the books and records of the Court or hiring an independent public accountant (IPA) or certified public accountant (CPA) for that purpose.

We found that the current Justices have developed adequate internal controls over the Court's financial operations, with the exception of performing accountabilities. Both the Justices and the Board provided adequate oversight and balanced their checkbooks to ensure that cash was properly safeguarded. However, the Justices did not perform accountabilities reconciling Court assets to known liabilities. Also, one Justice failed to close his bank account as required when he resigned.

Accountability

Unlike other municipal operations, Town Justices do not account for financial transactions on a fiscal year basis, and are not required to complete annual financial statements. Instead, they are required to account for cash receipts and disbursements from month to month, and determine accountability (by preparing a list of Court liabilities and comparing it with reconciled bank balances) on a monthly basis. At any point in time, Court liabilities, such as bail held on pending cases and unremitted fines and fees, should equal the Justices' available cash. Performing bank reconciliations and accountability analyses are critical procedures to document the status of moneys held by the Court.

We found that the Justices did not perform an accountability comparing the cash balance with Court liabilities on a monthly basis. Therefore, we performed accountabilities of the Justices' records of bail for pending cases, cashbooks and JCF reports with cash assets. As of May 31, 2012, Justice Ells' bank account agreed, but Justice LaPiana had an unexplained balance of \$156.¹ Upon his resignation, Justice Tripp had an unexplained excess balance of \$1,659² as of May 31, 2010. Without the performance of accountabilities on a monthly basis, the Justices are not aware of their current liabilities. As a result, errors and irregularities may occur and go undetected.

Resignation

When a Justice resigns before the end of his or her term, the Justice is required to transfer all pending cases and any moneys received on those cases, before his or her departure, to the other Justice or the succeeding Justice. The resigning Justice must also file a final report with JCF reporting all activity and remitting any fines and fees due along with any unidentified balances, and close all bank accounts.

We found that following Justice LaPiana's resignation in December 2009, he filed a final report and remitted any fines and fees due with JCF; however, he did not remit any unidentified balances or close his bank account. We performed accountability analyses at January 31, 2010, a month after his resignation and found an excess balance of \$156. The account remained dormant until Justice LaPiana returned in June 2010 to finish out the term of Justice Tripp who resigned in May 2010. The unidentified balance of \$156 is still being carried forward as of June 22, 2012.

When a Justice does not ensure that all the requirements are met when resigning his or her official position, such as remitting all money in his or her possession and closing all official bank accounts, the possibility of these moneys being unaccounted for or even lost/stolen is increased.

Recommendations

1. The Justices should perform accountabilities (by preparing lists of Court liabilities and comparing them with reconciled bank balances) on a monthly basis. Any discrepancies should be promptly investigated and resolved and unexplained balances remitted to the JCF.
2. Town officials should take action to close the former Justice's bank account and any unidentified moneys in the Justice's bank account should be reported and remitted to the JCF.

¹ See Resignation section.

² This balance was turned over to the Supervisor on August 8, 2010.

APPENDIX A

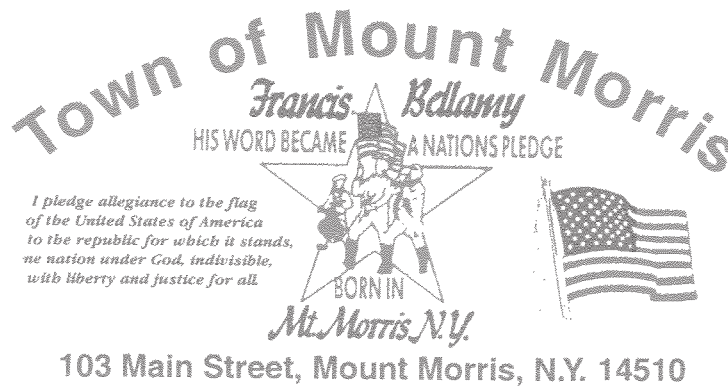
RESPONSE FROM LOCAL OFFICIALS

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

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January 4, 2013

Edward V. Grant, Jr., Chief Examiner
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Division of Local Government and School Accountability
The Powers Building
16 West Main Street, Suite 522
Rochester, NY 14614-1608

Re: Town of Mount Morris
Justice Court Draft Audit Report
Period Covered: January 1, 2005 – June 22, 2012

Dear Mr. Grant:

This letter will serve as the written response of the Town of Mt. Morris (the "Town") to the above-referenced Draft Audit Report for the Town Justice Court (the "Report").

The Town has thoroughly reviewed the findings and recommendations contained in the Report. Additionally, representatives of the Town met with representatives of the Office of the State Comptroller (the "OSC") and discussed the Report.

Please be advised that as a result of the Town's review of the Report and the conference with the OSC, the Town concludes that the findings contained in the Report are accurate, and the recommendations contained therein are reasonable and appropriate. Accordingly, the Town fully accepts the findings and recommendations of the Report.

The bank account of Judge Walter Tripp referenced in the Report has been closed as recommended by the Report.

The accountability practices recommended in the Report are being implemented at this time.

The Town will provide a detailed Corrective Action Plan ("CAP") which will incorporate the OSC recommendations of the Report. The CAP will be filed upon its approval by the Town Council. It is anticipated that the CAP will be reviewed and approved by the Town Council at its

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regular meeting on January 10, 2013. The CAP will be filed upon its approval by the Town Council at that meeting.

Please advise if you require anything further prior to the filing of the CAP.

Thank you for your assistance in this matter.

Sincerely,

Charles J. DiPasquale
Town Supervisor

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

- We reviewed the Court's accounting records to determine if they were complete, accurate, and up-to-date.
- We compared cash receipts and disbursements with case files, records of bail transactions, and reports to the JCF.
- We verified that transactions detailed on the bank statements were recorded in the records, were for legitimate purposes, and were supported.
- We reviewed bank account reconciliations.
- We compared Court activity to Traffic Safety Law Enforcement and Disposition (TSLED) reports prepared for the New York State Department of Motor Vehicles.
- We interviewed local officials and employees.

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.

APPENDIX C

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