



Town of Harmony Justice Court

Report of Examination

Period Covered:

January 1, 2012 — December 24, 2013

2014M-4



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

April 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 Harmony, 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 Harmony (Town) is located in Chautauqua County and has a population of approximately 2,350 residents. The Town provides various services to its residents, including road maintenance, snow removal and general government support. The Town's 2014 budgeted appropriations total \$916,233, funded primarily by real property taxes, sales tax and State aid.

The elected five-member Town Board (Board) is responsible for managing Town operations, including establishing internal controls over financial operations and maintaining sound financial condition. The Town Supervisor (Supervisor) is a member of the Board and serves as the chief executive and chief fiscal officer.

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 a Court Clerk. The Justice's principal duties involve adjudicating legal matters within the Court's jurisdiction and administering moneys collected from fines, bails, surcharges, civil fees and restitution.

Objective

The objective of our audit was to evaluate internal controls over the Court's financial operations and addressed the following related question:

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

Scope and Methodology

We examined the Court's records and reports for the period January 1, 2012 through December 24, 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 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 generally agreed with the findings and recommendations and indicated that they are taking 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 must maintain complete and accurate accounting records and safeguard all moneys collected by the Court. Justices also are responsible for reconciling Court collections to corresponding liabilities, depositing all moneys collected within 72 hours of receipt, disbursing fees collected to the Supervisor¹ and reporting Court transactions to the Justice Court Fund (JCF). They are also responsible for updating the status of vehicle and traffic tickets with the Department of Motor Vehicles (DMV) and the timely enforcement of those that remain unpaid. Town Law requires that the Board perform an annual audit of the Justices' records to ensure that the Court is properly recording and reporting transactions and accounting for moneys received.

We found no material discrepancies with the accounting for moneys received by the Court or the accuracy of bank deposits. However, the Justice did not perform monthly bank reconciliations and accountabilities. We also found that the Justice did not always make deposits, or report and remit moneys to the JCF, in a timely manner. Further, the Board's audit steps for the Court were not recorded in the minutes of its proceedings. As a result, the risk is increased that Court funds could be lost or misappropriated without detection or correction.

Monthly Reports and Remittance of Funds – Justices are 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 the Justice and their corresponding remittances for January 2012 through September 2013. Of the 21 monthly reports reviewed with remittances totaling more than \$21,000, 19 reports with remittances totaling more than \$19,000 were untimely. For example, the March 2013 report for \$1,339 was due on April 10, 2013, but was signed on May 28, 2013, and the remittance check cleared the bank on June 12, 2013. The 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.

Timely Deposits – New York Codes, Rules and Regulations require Court personnel to deposit all money received into the Justice's bank accounts as soon as possible, but no later than 72 hours after receipt, exclusive of Sundays and holidays. We reviewed 151 receipts totaling

¹ Prior to March 2013, the Justice was remitting fines and fees directly to JCF.

more than \$24,000 and found that 32 receipts totaling approximately \$4,000 were deposited between two and 39 days late. The failure to deposit Court receipts within the prescribed time limit increases the risk that money collected could be lost or stolen.

Accountability – Each month, the Justice should verify the accuracy of his 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 overages or shortages so that corrective action can be taken in a timely manner. Neither the Justice nor the Court Clerk perform accountability analyses. We prepared an accountability analysis for October 31, 2013 and found no discrepancies. However, by not performing monthly reconciliations, there is an increased risk that money paid to the Court could be lost or stolen and not detected in a timely manner.

Annual Audit – Town Law requires that the Board 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. Board minutes indicate that the Justice’s records were presented to the Board for audit in December 2012 and that no errors or omissions were found. However, there was no indication of what the Board had reviewed. During an audit of the Justice’s records, the Board should have identified the discrepancies described in this report. Without documentation of the Board’s audit steps, results and required corrective action in the minutes of its proceedings, Town taxpayers do not have any assurance that the Board performed a thorough audit and communicated its findings to the Justice so that he could take action.

Pending Tickets – The Justice is responsible for the enforcement of unpaid tickets and ensuring that revenues are collected as efficiently and effectively as possible. We reviewed the DMV pending ticket log, which contained 79 pending tickets as of November 30, 2013. We selected 20 tickets from the log to determine the status and enforcement of each ticket. We found that 10 of the cases had been either dismissed or paid, and one case was still pending. The Justice could not provide us with any documentation for the other nine cases. Because the Justice did not adequately reconcile DMV pending reports with current Court caseload activity, unpaid tickets may not have been enforced and DMV records were not updated in a timely manner.

Recommendations

The Justice should:

1. Submit monthly reports to the JCF by the tenth day of the succeeding month, as required.
2. Ensure that all money is deposited in a timely manner, as required.
3. Prepare a monthly accountability analysis for all moneys held by the Court. Any differences should be promptly investigated and, if necessary, corrective action taken.
4. Present his records to the Board for audit. The Board should document its audit steps, results and required corrective action in the minutes of its proceedings.
5. Periodically review and reconcile DMV's pending ticket log with caseload activity to ensure that tickets are properly reported as paid, or enforced in a timely manner.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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

1001 BLOCKVILLE- WATTS FLATS ROAD
ASHVILLE, NEW YORK 14710

Supervisor: WILLIAM LAWSON

Councilmen: PETE RADKA
JEFF JORDAN
DAVID HINDERER
CHERYL WARES

Highway Superintendent: TIMOTHY CARD
Town Clerk: SHELLY J. JOHNSON

NYS OSC
Chief Examiner
110 State Street, 12th Floor
Albany NY 12236

March 21, 2014

To whom it may concern,

Please accept this notice that I have received the draft of our audit results and we find no reason to contest any of the information contained in it.

We have begun to implement the procedures recommended and will complete the CAP after we receive the final report from your office, or within 90 days as indicated.

Thank you

William A Lawson

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/or 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 Justice Court's financial operations for the period January 1, 2012 through December 24, 2013.

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 Justice 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, 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 compared information from the JCF for the period January 2012 to October 2013, and from the DMV as of November 30, 2013, to Court records. We selected the first case on the log and then selected every fourth case on the log, for a total of 20 cases. Using this information, we determined whether fines, fees and surcharges were reported, as required, to the JCF and whether DMV records were updated for disposed tickets.

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

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