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August 15, 2014

John Bialek, Mayor
Members of the Board of Trustees and
Honorable Robert Glenn, Village Justice
Village of New York Mills
1 Maple Street
New York Mills, NY 13417

Report Number: S9-14-04

Dear Mayor Bialek, Members of the Board of Trustees and Village Justice Glenn:

The Office of the State Comptroller works 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 Village governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of five Justice Courts (Courts) throughout New York State. The objective of our audit was to determine if Justice Court officials properly collected, reported and remitted moneys on behalf of the Court. We included the Village of New York Mills (Village) Court in this audit. Within the audit scope, we examined the Court's policies and procedures and reviewed accountability and internal controls for the period January 1, 2012 through December 31, 2013. Following is the report of our audit of the Village Justice Court.

This report of examination letter contains our findings and recommendations specific to the Village. We discussed the findings and recommendations with Village officials and considered their comments, which appear in Appendix A, in preparing this report. Village officials generally disagreed with findings and recommendations. We responded to issues raised in the Village's response letter in Appendix B.

Summary of Findings

Based on our testing, we found the Court has not properly recorded and remitted moneys received. We found that the Court had an excess of \$5,860 in unidentified revenue. We also found that the Court was holding onto \$3,650 in bail money that was over six years old. Further, the Court is not properly reporting unresolved traffic tickets to the State's Department of Motor Vehicles (DMV).

In addition, we found weak information technology controls. As a result, the ability of Village and Court officials to effectively monitor and control Court operations was limited, and errors or irregularities could occur and not be detected or corrected.

Background and Methodology

The Village covers approximately one square mile and has approximately 3,300 residents. The Board of Trustees (Board), which is comprised of a Mayor and four Trustees, governs the Village and is responsible for overseeing the Court's general management and financial operations. The Mayor serves as the chief executive officer and, along with other administrative staff, is responsible for the Village's day-to-day operations. The Justice Court's budgeted appropriations for 2013 were \$43,284. The Village had one Justice, Robert Glenn, and two part-time Court clerks during our audit period. Per the Court's information technology system (System), the Court collected 810 payments totaling approximately \$67,700 in fines, surcharges and fees from January 1, 2012 through June 30, 2013.

Village Justice Courts are part of New York State's Unified Court System and play a vital role in upholding State and local laws. Village Justices (Justices) are empowered to hear civil and criminal cases and adjudicate misdemeanors, minor violations and traffic infractions. Most cases involve minor violations and traffic infractions. Justices impose and collect fines, surcharges, bail and civil fees, and are responsible for reporting adjudicated cases to the State. On a monthly basis, Court personnel remit the moneys collected to the Office of the State Comptroller's Justice Court Fund (JCF) or to the Village's chief fiscal officer.

To complete our audit objective, we conducted interviews with Village officials and reviewed adopted policies and procedures, accounting records and vehicle traffic tickets. 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 C of this report.

Audit Results

Justices are responsible for adjudicating cases brought before their Court and accounting for and reporting Court-related financial activities. They also must ensure that effective internal controls are in place to properly safeguard cash and other Court resources. Such controls should ensure that financial transactions are processed in a timely manner and properly recorded; 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 Board shares the Justice's primary responsibility for ensuring that an effective system of internal controls is in place for overseeing Court operations. If these internal control components are lacking or malfunctioning, accountability over the Court's financial operations is greatly diminished.

Based on our testing, we found that the Court had not properly recorded and remitted moneys received. We found \$5,860 in excess funds in the Court bank account with no documentation. We found that the Court was holding \$3,650 of bail money for over six years. Further, the Court did not properly report unresolved traffic tickets to the DMV. The Court does not reconcile monthly

DMV reports with the Court's current caseload activity and, therefore, may be losing revenue from traffic violations. Finally, the Court's System does not have adequate controls.

Excess Money – At the end of the month, all fines, surcharges and fees collected for that month should be reported to the JCF. The Court provides the municipality a check for the total monthly amount. The JCF provides a report with the breakdown of the distribution of the monthly collection. The remaining money in the Court's bank account should be equal to the Court's outstanding bail.

Prompt and accurate recording of receipts is an essential process needed to properly account for Court moneys. Each receipt should be recorded in the cash receipts section of the cash book or System promptly upon issuance to ensure accountability. Unidentified money in a town or village justice's bank account should be reported, paid to and retained by JCF until a legitimate claim is made against these funds.

We found that the Court had an excess \$5,860 in the Court bank account as of June 30, 2013. Court officials said that they have no documentation as to where this money should be allocated to, whether it is fines/fees or bail money collected. The Court has been researching this excess money for several years and could not determine how it was obtained. We tested¹ three months of receipts, 155 receipts, and found all to be properly collected, reported and remitted. We found no discrepancies during our review of bail records that would indicate where the excess money came from. Without proper documentation, the Court should remit this money to the JCF until proper documentation can be located, resulting in the money being allocated appropriately.

Bail – Exonerated bail should be given back to the person who posted the bail, less any applicable bail fees. A justice court should make a good faith effort for a reasonable period of time to locate the person who posted cash bail. If unable to locate this person to return bail, a court may transfer such moneys to the municipality's chief fiscal officer pending a claim. Cash bail still unclaimed six years after exoneration of the bail becomes the municipality's property.

We found that the Court is in possession of \$3,650 in bail money received from five individuals that is over six years old. During our fieldwork, the Court clerk was in the process of locating these five individuals in order to return the bail money. Court officials said that they do not have enough time to research bail money, which resulted in the bail money being held for over six years. If the individuals are not located, then the Court should transfer the bail money over to the Village. By not transferring the bail money over to the Village, it provides an opportunity for theft or misplacement of Court money.

Traffic Tickets – Justices should periodically update and reconcile DMV reports (pending and disposed/dismissed tickets) with current caseload activity. The local and State police agencies issue Uniform Traffic Tickets (UTT) for vehicle and traffic infractions. The DMV tracks the tickets by adding pertinent information to its Traffic Safety Law Enforcement and Disposition (TSLED) database. Upon adjudication, when all fines are paid, the Court must send a copy of the ticket to the DMV for it to be removed from the pending-ticket database. Among the reports available to the Court is a list of all pending UTT cases, which the Justice may use to help ensure that tickets are processed by the Court in a timely manner. This report can also identify individuals who either

¹ See Appendix C for additional testing

have not appeared in Court to resolve their ticket or have not paid their fine. The Court may “scofflaw” these drivers.² The Court has to wait 60 days from either the date of appearance or last payment before sending paperwork to the DMV to suspend the motorist’s driving privileges.

We found the Court has not reported unresolved traffic tickets to the DMV for enforcement in a timely manner. The Court has a process in place to submit reports of unresolved traffic tickets to DMV. The Court scans the open UTT case files and separates the cases that are 60 days old or older. Each case is then marked as unresolved in the System and reported to the DMV. We selected 30 UTT case files and found that 12 UTT case files were not reported. Further, we found that it took an average of 260 days to address the remaining 18 UTT case files. The Court has not effectively monitored or reconciled the unresolved traffic tickets with the DMV. Court officials attributed untimely data entry, System errors and not receiving the monthly DMV pending cases reports as the reasons why the tickets were not properly reported.

By not receiving the monthly DMV pending cases reports, the Court was unable to reconcile with the Court’s current caseload activity. Therefore, unpaid traffic ticket fines and fees were not enforced in a timely manner, potentially resulting in lost revenue to the Village.

Information Technology Controls – Financial and case management software should produce complete and accurate records and reports. Once information is entered into the system, its integrity should be maintained through controls that limit access and unauthorized changes to the data. Effective software controls should provide a means to determine the identity of users who access the software and which transactions they processed. Software controls should also prevent users from making retroactive changes to the system to ensure that all transactions are reflected as of the date they were recorded in the system.

Users should not be given system access beyond what they need to complete their job responsibilities. To assure accountability and help troubleshoot data errors, an automated audit log, or audit trail, can provide management with a report that shows who made modifications to the system and what transactions took place. Routine management review of audit logs is an important measure to monitor user activities.

The Court relies solely on the System to maintain all Court information because the Court does not retain hardcopy documents such as tickets and supporting documentation. In addition, the Court does not issue written receipts. The System permits files to be changed or deleted without documenting the reason. For example, a cash receipt record can be created with a receipt number, which can be subsequently changed to a different number. In addition, the Court’s System does not produce an audit log of activity for the Justice or Board to review for changes or deletions of cases within the System. As a result, there is no individual accountability for changes to case records, which significantly increases the risk of errors or irregularities. This, along with not using or maintaining hardcopy records, limits the ability of the Court or Board officials to review Court activity from system-generated reports.

² The DMV Scofflaw Program allows local justice courts to notify the DMV when an individual has an unresolved (failure to pay the fine or failure to appear on the court date) traffic ticket for a 60-day period. When this occurs, the DMV notifies the individual and gives them 30 additional days to address the issue. If the individual has not taken action, then the DMV suspends the individual’s license until they address the outstanding ticket.

Recommendations

1. The Justice should report and remit all excess money to the JCF until documentation is presented as to where the money should be allocated.
2. The Justice should transfer all bail money that is over six years old to the Village.
3. The Justice should contact the DMV about receiving the monthly DMV pending cases report.
4. The Justice should periodically review and reconcile the DMV pending-ticket log with the Court's current caseload activity to ensure that tickets are properly reported, as paid or enforced, in a timely manner.
5. The Board and Justice should assess the risk areas in the Court software, such as an inadequate audit trail and insufficient automated controls, develop compensating controls to mitigate these risks (e.g., periodically comparing physical cash receipts to the cash receipts log in the software) and contact the software vendor as necessary to address the weaknesses.
6. A system-generated audit trail should be generated, and routinely reviewed by someone independent of the recordkeeping process for unusual or potentially unauthorized transactions.

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of the General Municipal Law, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. 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 Village Clerk's office.

Our office is available to assist you upon request. If you have any further questions, please contact Ann Singer, Chief of Statewide Audits, at (607) 721-8306.

We thank Village officials and staff of the New York Mills Justice Court for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo

APPENDIX A

RESPONSE FROM VILLAGE OFFICIALS

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

MAYOR
John Bialek

TRUSTEES
Chip Cieplenski
John Edwards
Kenneth Jarosz
Kenneth L. McCoy

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SUPERINTENDENT**
Joseph R. Cotrupe, Jr.

May 28, 2014

State of New York
Office of the State Comptroller
Att: Ann Singer
State Office Building
Room 1702
44 Hawley Street
Binghamton, New York 13901

The Village of New York Mills received your draft Audit Report for the recent audit of our Justice Court. We respond as follows:

1. **Audit Period.** The report fails to identify with certainty the audit period, in that it cites January 1, 2012 through December 31, 2013 in the pre-summary part of the letter, but then references in the report body, testing samples occurring January 1, 2012 through June 30, 2013.
2. **Contradictions.** Your audit report contradicts its own findings in its Summary of Findings paragraph as compared to its Audit Results. It specifically states in the first sentence of the Summary of Findings paragraph and reiterates in the second paragraph of the Audit Results section, "*Based on our testing, [emphasis added] we found the Court has not properly recorded and remitted moneys received.*" However, paragraph five of Audit Results specifically states "We tested three months of receipts, 155 receipts, and found all to be properly collected, reported and remitted."
3. **Excess Funds.** The audit report cites "excess funds" of \$5,863 in the Summary of Findings paragraph and \$5,860 in the Audit Results section. While we concede the difference being a mere \$3, it's just another example of the inconsistencies in this audit report. The audit report also acknowledges the Court "has been researching this excess money for several years and could not conclude on how it was obtained." The audit report *must* note that these "excess funds" did not arise during the audit period and while an ongoing issue for correction, not a result of any negligent act on the part of the Village Justice, Court Clerks, or the

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Village Board during the audit period. In fact, the Village Board, in its own internal auditing, determined there is an unallocated amount of approximately \$5,900(rounded), which by its awareness of such monies diminishes the likelihood of theft or misplacement.

4. Scofflaw Reporting and DMV Reconciliation. According to our inquiries to the DMV, this state agency provides no reporting of any kind whatsoever on a monthly basis to reconcile our Scofflaw transmittals, therefore the audit report citing as a Court deficiency the lack of reconciliation, should be wholly attributed the state agency (DMV) which fails to provide the necessary reporting to the justice courts.
5. Information Technology Controls. The audit report criticizes the software the Village uses for financial and case management as lacking in internal control. However, the auditors fail to recognize that this is the software recommended and required by New York State for Justice Courts. The provisions the audit report suggests are not optional with this software and therefore the Court cannot be cited for this deficiency.
6. Corrective Action Plan (CAP). The Justice Court, in conjunction with the Village Board, is working on a Corrective Action Plan (CAP) to address and implement recommendations of the audit report. It is our intention to submit the CAP within ninety-days of the finalization of the audit report.

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Pursuant to our recent discussions, we are confident these issues will be addressed and rectified. Thank you for your courtesies in this matter.

Respectfully submitted,

John W. Bialek, Mayor
Village of New York Mills

APPENDIX B

OSC COMMENTS ON THE VILLAGE'S RESPONSE

Note 1

The report identifies the audit scope period and clearly delineates the various testing periods for each section of the audit report.

Note 2

The audit conclusion states that the Court is in possession of \$5,860 in excess funds in its bank account that cannot be identified. Our tests of current cash receipts for three months determined that they were appropriate, recorded and deposited. However, the Court still had excess funds in its account, which is the basis for our conclusion.

Note 3

The \$3 rounding issue identified by the Village has been adjusted in the final report.

Note 4

Although the Court clerk responsible for reporting unresolved traffic tickets to the DMV told us she does not reconcile with DMV records, the DMV does prepare monthly reports identifying unresolved traffic tickets. Per our recommendations, the Court should work with DMV to obtain the necessary reports and address the issue regarding the Court's failure to scofflaw tickets in a timely manner.

Note 5

The audit report identifies the weaknesses associated with the software system used by the Court. In light of the excess funds in the Court bank accounts, outstanding bail and lack of enforcing traffic tickets, a software with strong controls would significantly improve the internal controls and reduce the risk of misuse of funds. The JCF endorses more than one software system for justice courts. Alternatively, additional internal controls and reviews can enhance the Court's routine procedures to mitigate the software system's weaknesses.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to determine if Justice Court officials properly collected, reported and remitted moneys on the Court's behalf. As part of our audit, we performed the following procedures:

- We interviewed the Justice and officials to obtain general background information of the Court. We also interviewed the Justice and Court clerks to gain an understanding of the Court's processes as they relate to the audit objective.
- We reviewed cash receipt journals, deposit slips, tickets and bank statements as well as transactions in the Court's financial system. We also assessed the controls in place over the Court's System.
- We reviewed the monthly reports that are sent to the JCF and information reported to the DMV. We obtained ticket information from the DMV and the JCF and analyzed the data for tickets included in the DMV file, but not in the JCF file. We identified the tickets with different fines or surcharges and investigated the reasons for the differences.
- We contacted motorists who had dismissed tickets with no supporting documentation, to determine that the tickets were in fact dismissed with no fine or surcharge due. We reviewed information from the computer program used to report to the JCF and the DMV. We reviewed unresolved traffic tickets to determine if the Court is reporting motorists who have a pending ticket that is more than 60 days old to the DMV in a timely manner.

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.