



Village of Corfu Justice Court

Report of Examination

Period Covered:

November 1, 2009 — September 12, 2011

2011M-247



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

January 2012

Dear Village 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 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 Village of Corfu 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 Village of Corfu (Village) is located in the Town of Pembroke, Genesee County in western New York State. The Village encompasses two square miles and has a population of approximately 800 residents. The Village is governed by an elected Board of Trustees (Board), which consists of a mayor and four trustees. The Village provides general administrative services, including the operation of a Justice Court (Court). There is one elected Justice and one appointed acting Justice responsible for Court operations. Virtually all of the Court's activity is handled by the elected Justice. There is one Court Clerk (Clerk) who assists the Justice in his responsibilities, at his direction. The Board is required to perform an annual audit of the Justice's records or to engage an independent public accountant to perform the audit.

Robert Alexander has served as Justice for 22 years. As Justice, he has jurisdiction over and is responsible for hearing cases involving certain civil and criminal matters, as well as vehicle and traffic violations. The Clerk is responsible for collecting and recording fines, fees and bail, and reporting adjudicated cases to the New York State Department of Motor Vehicles (DMV) and the Office of the State Comptroller's Justice Court Fund (JCF). The Clerk¹ in this Court is the Justice's daughter. A recent audit by the New York State Unified Court System's Office of Court Administration identified numerous weaknesses in the operations of this Court.

Objective

The objective of our audit was to determine if the Justice properly accounted for moneys from Court activities. Our audit addressed the following question:

- Did the Justice ensure that the Court recorded, deposited, disbursed, and reported all moneys received in a timely and accurate manner?

Scope and Methodology

We examined Justice Robert Alexander's records and reports for the period November 1, 2009 through September 12, 2011.

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 C of this report.

¹ The Board terminated the Clerk's employment in August 2011.

**Comments of
Local Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. In responding to our audit, Court officials indicated they had implemented some of our recommendations. In Appendix B, we comment on their response.

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 Clerk-Treasurer's office.

Village Justice Robert Alexander

Justices are personally responsible and accountable for all moneys received and disbursed by them. As such, it is critical that Justices ensure that they can account for Court moneys by establishing effective controls over Court activities. Such controls include properly recording and reporting all fees collected, issuing receipts for all moneys received, depositing all moneys intact and in a timely manner, disbursing all moneys to appropriate agencies or individuals, and reconciling and accounting for all moneys held by the Justice.

While the Justice is solely responsible for adjudicating cases, the Clerk performs virtually all other Court duties. These responsibilities include collecting fines, fees and bail paid by defendants in the form of cash, checks, money orders, or credit card payments; issuing computerized receipts; maintaining case files in hard copy and/or computerized form; reporting activity to the DMV; preparing deposit slips and depositing money in the bank; and preparing monthly reports for the JCF.² When the Clerk is responsible for the conflicting duties of collecting, depositing, and recording Court moneys, it is essential that the Justice monitor the Clerk's performance to properly account for Court revenues.

However, we found that bank deposits were not made intact,³ and deposits were split⁴ and/or back dated. These factors permit the manipulation of Court revenues. Further, fines were recorded at values less than the actual amounts paid, cash collections were recorded but did not appear to be deposited, and other checks and/or money orders were deposited but not recorded and reported. The cash shortage for the period we tested totaled \$10,628. These shortages occurred because the Justice did not establish proper internal controls over Court financial activities, including doing monthly reconciliations, performing accountabilities for Court funds, and properly monitoring the Clerk's performance. The Board terminated the Clerk's employment in August 2011. We have referred the matters in this report to law enforcement.

² All adjudicated cases must be reported to the JCF including dismissed cases where no fine or fee is required.

³ Depositing intact means that moneys are deposited in the same amount and form as received.

⁴ A split deposit occurs when deposited money is recorded on different days in the cashbook. For example, cash, checks and money orders included in the December 8, 2010 deposit of \$7,450 were recorded in the cashbook as having been paid and deposited on November 24, 29, 30 and December 23, 2010. The December 23, 2010 deposit of cash, checks and money orders for \$7,950 was recorded on the cashbook as having been paid and deposited on November 24, 30 and December 23 and 30, 2010.

Table 1 shows the cash shortage we identified at this Court and the cashbook adjustments made that could have been used to cover up the shortage. We also found that some tickets were reported to DMV as closed when there was no evidence that a fine was paid or the case was dismissed; other tickets were reported to DMV long before the fines were recorded as paid. There is a risk that these fines could have been paid in cash and not recorded, or deposited and not recorded.

Table 1: Total Exceptions Identified		
Type of Exception	Total Exceptions	Total by Type
Cash Shortage		
Cash shortage identified by Accountability	\$1,809	
Cash collected but not deposited	\$8,819	
Total Cash Shortage		\$10,628
Adjustments Potentially Used to Cover Up Shortage		
Fines and bail not recorded on cashbook	\$16,883	
Payments recorded at less than actually paid	\$2,210	
Credit card payments for amounts greater than recorded in cashbook	\$790	
Total Adjustments Potentially Used to Cover Up Shortage		\$19,883
Tickets Disposed to DMV but Not Reported to JCF		
Tickets disposed on DMV report without being reported to JCF and with no evidence of payment	\$3,770	
Tickets disposed on DMV report without being reported to JCF before payment was made	\$2,350	
Total Tickets Disposed to DMV but Not Reported to JCF		\$6,120

Accountability

Each month, Justices should verify the accuracy of their financial records and reconcile all Court bank accounts. Justices should also perform an accountability of money they hold by preparing a listing of Court liabilities and comparing it with reconciled bank balances. Periodic analyses should identify the source and amount of all revenue held in the Justice's accounts, and should detect any shortages or improper disbursements of funds so that corrective action can be taken in a timely manner.

Neither the Justice nor his Clerk adequately reconciled bank accounts on a monthly basis, and the Justice did not prepare a monthly accountability of moneys in his possession. We performed an accountability as of June 7, 2011, and identified a cash shortage of \$1,809, based on liabilities identified from the Court records that were available to us at that time. If the Justice had performed monthly accountabilities and reviewed these analyses, he could have detected the shortages we identified.

Table 2: Village of Corfu Court – June 7, 2011 Accountability			
Assets		Liabilities	
June 7, 2011 Bank Balance	\$2,836	June 7, 2011 Cashbook Report	\$1,555
Cash, checks and money orders on hand	\$0	Bail	\$2,840
Petty cash	\$0	Adjustment to bail account	\$250
Total Assets	\$2,836	Total Liabilities	\$4,645
Difference (shortage)	(\$1,809)		

**Cash Collected
but Not Reported**

A receipt issued for payment is an essential source document because it is evidence that the payment was made. Receipts should be pre-numbered to ensure they are issued sequentially, and issued in duplicate for every payment made to the Court when no other evidence of receipt, such as a credit card transaction receipt, is available. Receipts issued by the Court should include, at a minimum, the date paid, the payee, the case number, the amount paid, and the method of payment (i.e., cash, check, money order, or credit card). We found that, prior to March 2011, the Court’s receipts were printed from the computer. While some groups of receipts were consecutively numbered, others were numbered out of sequence. We also found that all the receipt numbers recorded on the printed cashbook reports were illegible.

When we compared the amount of cash included in bank deposits for the period November 2009 through February 2011 with the total amount of fines noted in the cashbook as having been paid in cash during that period, we found that \$8,819 less cash was deposited in the bank than was recorded in the cashbook. These Court moneys are unaccounted for because neither the Justice nor the Clerk performed monthly reconciliations of Court activities, and the Justice did not review Court financial records.

**Incorrect Record
of Fines Paid**

The Justice is responsible for maintaining an accurate record of fines and fees collected in a cashbook or in a computerized system that accounts for all moneys received. This information is used to prepare the required monthly report to the JCF detailing all fines and fees collected in the previous month. Because of the poor condition of Court records, we obtained and examined bank records⁵ for all Court bank deposits made from November 2009 through February 2011 to determine whether all receipts were recorded and reported to JCF.

We found that the cashbook was an incomplete record of fines and bail paid by cash, check, money order, or credit card. Transactions were not properly recorded on the Court’s cashbook, or were recorded

⁵ Bank records for each deposit included copies of the deposit ticket, the cash-in ticket prepared by the teller and all checks and/or money orders included in the deposit. We also obtained details of credit card transactions.

in an amount that was different from the amount actually paid. For example, we found that cash, checks, money orders, and credit card transactions totaling \$16,883,⁶ apparently representing the payment of fines and bail, were included in the bank deposit but were not recorded in the cashbook.

In further tests of cashbook entries, we used any available plea sheets⁷ as a reliable record of the Court-imposed fine amount. We found that defendant payments totaling \$3,000 were underreported in the cashbook, as follows:

- A total of 67 cash, check and money order payments were recorded for amounts less than the amount actually paid by the defendants. Underreported amounts totaled \$2,210. While we were able to locate only 38 of the 67 plea sheets, the amount on the plea sheet agreed with the amount paid by the defendant for only 10 cases. For 27 of the remaining 28 cases, the amount of the fine on the plea sheet was less than the amount the defendant paid; for one case, the defendant paid less than the amount on the plea sheet.
- For 22 credit card payments, the deposit from the credit card processing vendor was more than the corresponding entry in the cashbook. Underreported amounts totaled \$790. We located plea sheets for 14 of these cases. The fine indicated on plea sheets agreed with the amount paid by the defendant in only four cases; in the other 10 cases, the amount of the fine on the plea sheet was less than the defendant paid.

We questioned why a defendant would pay more than the fine stated on the plea sheet, so we looked for other evidence to explain how this could happen. While we were able to locate a number of plea sheets, the Court records we obtained did not contain many sentencing letters. The Court used sentencing letters to notify defendants who plead guilty by mail (and did not appear in person in Court) of the sentence imposed and the fine due to the Court. Two individuals were able to provide us with their respective sentencing letters. In both cases, the Court's sentencing letter asked the defendant to pay a higher fine than the fine recorded on the plea sheet. This test was necessarily limited because there were very few sentencing letters in Court records. However, given that this relatively simple scheme was used on at least two occasions, overstating fines in sentencing

⁶ Cash receipts not recorded in the cashbook are made up of \$13,300 in bail and \$3,583 in fines.

⁷ A plea sheet is a Court document, initialed by the Justice and the prosecutor, which indicates the Court's acceptance of a defendant's plea and the amount of the fine imposed.

letters is one of the practices that could account for underreported fine amounts in the cashbook.

The failure to record fines and bail money received and deposited and recording fines at a different amount than was actually paid are both practices that could have been used to conceal the cash shortages of \$10,628, as reported above.

Cases Reported as Disposed to DMV but not JCF

When a ticket is issued, relevant information is sent electronically to DMV. When a case is adjudicated and fines are paid in full or the case is dismissed, it can be closed. While this step includes recording the payment in the Court cashbook and in the monthly JCF report, it also requires the Court to send this information to the DMV so the case is properly accounted for as “disposed” in its database. It is very important that the Court report closed cases to DMV in a timely manner so the defendant’s DMV record is correct. Cases reported as disposed to DMV should appear in the Court’s monthly report to JCF, and any related fines should be remitted to JCF.

For the period November 1, 2009 to February 28, 2011, we compared 1,682 tickets, whose fines and fees totaled \$219,710, which the Court had reported to DMV as disposed, to the tickets listed on the monthly reports submitted to JCF for the same period. Our comparison found the following:

- There was no evidence that the Court had collected fines for 11 tickets, totaling \$3,770, but these tickets had been reported as disposed to the DMV; for another four tickets totaling \$2,350, the fines were recorded as paid long after the tickets had been reported to the DMV as disposed.⁸
- The Court reported another 16 tickets to DMV as dismissed with no fine imposed; however, the Court did not report the disposition of any of these tickets to JCF.

It is unusual to report tickets as disposed to the DMV without also reporting them on the JCF monthly report. There is a risk that these fines could have been paid in cash and not recorded, or deposited and not recorded.

When we asked the Clerk how these numerous and varied exceptions occurred, she replied that she performed her job too quickly and had made many errors.⁹

⁸ For one case (consisting of three tickets), the DMV disposed date was September 3, 2010, but the fines were recorded as paid and reported to JCF in July 2011. For the other ticket, the DMV disposed date was February 4, 2011, but the fine was recorded as paid and report to JCF in June 2011.

⁹ The Court Clerk began full time employment with the Court on March 10, 2008.

While it is not unusual for a Justice to have a family member serve as Clerk, the Justice must seek prior approval for such an appointment from the NYS Unified Court System (UCS). Justice Alexander did not obtain this required approval from UCS. When he did request approval in May 2011, UCS¹⁰ denied the request. As a result, the Board terminated the Clerk's employment. Her final day of work for the Court was August 12, 2011.

Recommendations

1. The Board should attempt to recover funds owed to the Court by the Justice.
2. The Justice should attempt to identify those defendants who overpaid their fines and provide them with refunds.
3. The Justice should reconcile the bank account on a monthly basis and prepare an accountability for all moneys held by the Court.
4. The Justice should issue sequentially numbered duplicate receipts for all moneys collected and ensure the receipt indicates the form of payment.
5. The Clerk should record all fines, fees and bail money collected, in the cashbook as received.
6. The Clerk and/or Justice should make bank deposits timely and intact.
7. The Justice should ensure that cases reported to DMV as disposed are also reported to JCF, as required, and that any related fines are remitted to JCF.

¹⁰ Denial document was dated June 6, 2011

APPENDIX A

RESPONSES FROM LOCAL OFFICIALS

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

The Court's response refers to an attachment with additional information about specific cases. We did not include the attachment in this report because the Court's response is sufficient to address the Justice's concerns without this information.

BOYLAN LAW OFFICE, LLP

ATTORNEYS AND COUNSELORS AT LAW
P.O. BOX 307, 45 WEST MAIN STREET
LE ROY, NEW YORK 14482-0307
(585) 768-8148 FAX (585) 768-7738

PAUL S. BOYLAN*
LAURENCE W. BOYLAN
MARK S. BOYLAN
*ALSO ADMITTED IN FLORIDA

PAUL A. BOYLAN
(1902-1997)
GLENN R. MORTON
RETIRED

December 23, 2011

Robert Meller, Chief Examiner
Office of the State Comptroller
Ellicott Square Building
Room 1032
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Buffalo, NY 14203

Re: Village of Corfu-Justice Court Audit

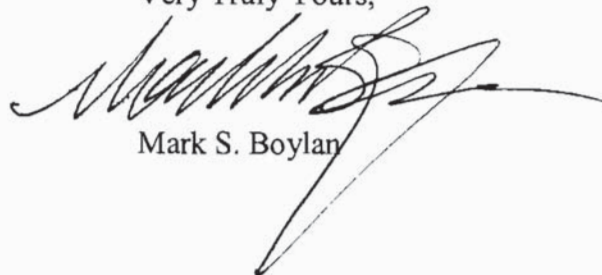
Dear Mr. Meller:

As attorney for the Village of Corfu I am writing today to acknowledge receipt of the draft Audit by your office of the financial records of Village Justice Robert Alexander.

It is the Village Board's position that any corrective action necessary is the responsibility of Judge Alexander.

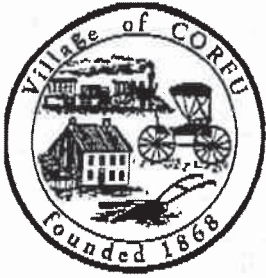
Thank you and your assistance in this matter is greatly appreciated.

Very Truly Yours,

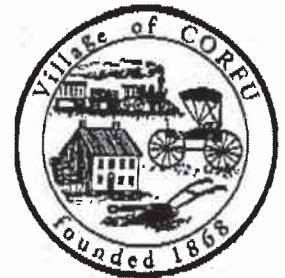


Mark S. Boylan

MSB/bk



Village of Corfu
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Corfu, New York 14036
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January 5, 2012

Office of the State Comptroller
Division of Local Government & School Accountability
PSU – CAP Submission
110 State Street, 12th Floor
Albany, NY 12236

RE: Village of Corfu Justice Court Audit
Period: November 1, 2009 – September 12, 2011
Report # 2011M-247

To Whom It May Concern:

On December 6, 2011, the court was asked to attend a state audit meeting. The preliminary draft of the audit was revealed that day. In attendance were: [REDACTED], Mayor Todd Skeet, Justice Robert Alexander, and Pam Yasses. Based on the 15 page draft that was given to us for further review, research has been completed for specific cases.

The following findings are based solely on the limited information that was accessible to the Court between 12/6/11-1/3/12.

PART 1: Vehicle and Traffic Tickets

The draft summarized findings where many Vehicle and Traffic matters were handled inefficiently. Ex: Defendant paid more or less than what they were actually assigned. Based on a listing of names provided by the State, the court was able to look into 15 specific cases to test this theory.

(Refer to Table 1)

The following information is for the 15 cases mentioned on Table 1:

The court was able to obtain a copy of the actual images of the check/money orders that were sent in by the Defendant, processed by the court, and then deposited into the bank. Although there were overpayments made, each payment (money order/check) that was received was deposited into the bank. The dollar amount that was entered into the SEI program was also reported on the court's monthly cashbook report, and on the monthly JCF report.

See
Note 1
Page 15

For 12 of these cases the court obtained plea slips which had the original fine that was assigned. (On Table 1)

In general, the state focused on the *over* payments that were being processed. It is only safe to assume that there must be *under* payments that were also being handled. The court is requesting any documentation or report that contains the latter, so that further comparisons can be made.

See
Note 2
Page 15

- The court is not denying that there were overpayments made and that some Defendants are owed a refund. At the time, when the clerk realized there was a discrepancy, she started keeping a log of monthly differences. (September 2009- June 2010) This issue was previously acknowledged by the court however no solution as to how to track each individual down was ever determined.

See
Note 3
Page 15

PART 2: Bail

Due to the limited time and resources available, the court could only review a total of 12 bail cases.

See
Note 4
Page 15

- From these 12 cases, there was a total of \$16000 received as "add bail". (Meaning there was bail posted in some form by either the Defendant or another party.) 8 of these cases posted bail via check/money order/credit card.- totaling \$13500. The remaining 4 cases posted bail in the form of cash- totaling \$2500.
- According to the SEI checkbook records, for each case, the bail was accounted for when it was added and then accounted for when properly returned. However, the added and returned portions were not properly reported on the cashbook report. Bail poundage was reported to the JCF.

The court also tried to do a comparison of cash transactions vs. credit/money order/check transactions to determine the accurate amount of cash that is in dispute. Without the complete bank composition to verify more details, exact methods of payment, cancelled checks from bail returns etc. the court finds it impossible to draw a conclusion that coincides with the State's draft, and would again request that an extension be granted for more time to review pertinent material.

See
Note 4
Page 15

PART 3: Corrective Actions Taken:

Part of the corrective measures that the court has taken to ensure accurate reporting is as follows:

- a filing system has been put in place for ALL cases
- pre-printed/pressed receipts in numerical order are used
- receipt binder is kept for easy reference
- receipts are given to each Defendant when case is disposed
- all incoming/outgoing information is filed with the case (ex: original ticket, plea slip, copy of receipt, adjournment notices, fine notices etc)
- daily deposit slips are printed and daily bank deposits made
- checks are dispersed only by the Judge with an authentic signature
- bank account is reconciled monthly
- all cases are recorded on cashbook report, JCF, and to the DMV as required

Thank you for your time and consideration in these matters

Respectfully,


Justice Robert E. Alexander

APPENDIX B

OSC'S COMMENTS ON THE COURT'S RESPONSE

Note 1

The Court states that it deposited any overpayments by defendants in the bank, and that it entered the dollar amounts of the overpayments in the cash book. If this were the case, an analysis of Court assets (cash) to liabilities would have shown excess cash in the Court's bank account. However, this is not the case: our accountability analysis at June 7, 2011 showed a cash deficit of (\$1,809). If the Court had provided a refund to defendants, this deficit would have increased.

Note 2

The Court suggests that the issues we discuss in our report could be explained by the existence of underpayments, or instances in which cash receipt entries in the cashbook and monthly report were for more than the amount paid by the defendant. However, of the approximately 2,500 entries recorded in the cashbook from November 2009 through February 2011, we found only four possible underpayments recorded in the cashbook, and these underpayments totaled an immaterial amount (\$155).

Note 3

The log referred to in the Court's response contained no information relative to possible overpayments.

Note 4

The Court's response states they had only limited information available to review the irregularities described in our report. The Court should have had all the documentation it needed on file at the Court office to review the cases in question. However, the Court lacked this information because its records, which it is responsible for maintaining, were in very poor condition.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard Justice Court assets. During the initial assessment, we interviewed appropriate Village officials and Court staff, performed limited tests of transactions and reviewed pertinent documents, such as Village policies and procedures manuals, Board minutes, and financial records and reports. In addition, we obtained information directly from the computerized financial databases and then analyzed it electronically using computer-assisted techniques.

To determine if the Court had properly designed and implemented internal controls over its assets, we examined the following records and reports:

- We reviewed monthly cashbook reports for the period November 2009 through February 2011 provided by the Clerk.
- We reviewed available plea sheet documents, which were used to substantiate the amount paid by defendants.
- We obtained bank deposit compositions for the period November 2009 through April 2011 and reviewed them to ensure they were complete and accurate. We then compared them to the entries in the cashbook to determine if payments received by the Court were accurately recorded. We also compared the amounts recorded in the cashbook to the fines imposed by the Justice as documented on the defendants' plea sheets.
- We obtained deposit detail for the period November 2009 through February 2011 from the Court's third party credit card processing vendor. We reviewed the documentation to ensure it was complete and accurate, then compared it to the corresponding credit card entries in the cashbook.
- We electronically compared a report of all cases the Court reported to the Justice Court Fund from November 2009 through March 2011 with an electronic report of all cases the Court reported disposed to the New York State Department of Motor Vehicles from November 2009 through February 2011. To determine the reliability of this information, we compared totals from the January, March and August 2010 JCF reports obtained from the Court to the corresponding totals on the electronic version. In addition, we contacted the Court Clerk to see if any payments had been received for tickets on the DMV disposal list (but not reported to the JCF) after our last day of fieldwork.
- We contacted fourteen individuals from whom the Court's records indicated fines were received to confirm the amount and/or method of payment.
- We reviewed all Court check disbursements from February 2008 through April 2011 to determine if any refunds had been issued for overpayments. When cancelled checks were not available, we contacted the bank and obtained copies. We expanded our search back to 2008 because checks drawn on the Court's bank account were not issued in chronological order.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX D

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