



City of New York

OFFICE OF THE COMPTROLLER

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FINANCIAL AUDIT

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Deputy Comptroller for Audit

Follow-up Audit Report on the
Compliance of Statue Cruises, LLC with
Its License Agreement

FM15-126F

February 8, 2016

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, NY 10007

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February 8, 2016

To the Residents of the City of New York:

My office has audited Statue Cruises, LLC (Statue Cruises) to determine whether the concessionaire implemented the recommendations made in a prior audit, *Audit Report on the Compliance of Statue Cruises, LLC with Its License Agreement* (Audit No. FM12-122A, issued on July 2, 2013). We perform audits of City concessionaires as a means of increasing accountability and ensuring that concessionaires operate in compliance with their agreements.

This follow-up audit assessed the implementation of the prior audit's eight recommendations: three to Statue Cruises and five to the Department of Parks and Recreation (Parks). In the follow-up audit, we found that of the eight recommendations originally made, one recommendation was implemented, four were partially implemented, two were not implemented, and one was no longer applicable. Specifically with regard to the internal control weaknesses disclosed in the prior audit, we found that Statue Cruises had not completely resolved its internal control issues related to missing ferry ticket numbers, does not use pre-numbered charter events invoices, and has failed to fully separate its New York City operations from its New Jersey operations in its financial books and records. In addition, we found that Parks did not conduct periodic reviews of Statue Cruises' internal control procedures as recommended. Consequently, we cannot be reasonably assured of the completeness of Statue Cruises' reported gross revenue and its payment of license fees. With regard to the tax exemption claimed by Statue Cruises for the City and State general corporation taxes, this audit determined that while Parks referred the matter to the Department of Finance (DOF) as recommended in 2013, there has been no resolution by DOF and no recent follow-up action by Parks.

To address the issues from the prior audit that still exist, this follow-up audit recommends that Statue Cruises resolve the control issues that resulted in the missing ticket numbers identified in the audit and hire a fiscal consultant to review the internal controls to ensure the completeness of reported gross revenue. The audit also recommends that Parks ensure that Statue Cruises implements the recommendations made in this report, conduct a periodic review of the adequacy of Statue Cruises' system of internal controls, and submit a formal follow-up request to the DOF for an expedited resolution on the outstanding tax issue.

The results of the audit have been discussed with Statue Cruises and Parks officials, and their comments have been considered in preparing this report. Their complete written responses are attached to this report. If you have any questions concerning this report, please email my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,



Scott M. Stringer

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

Follow-up Audit Report on the Compliance of Statue Cruises, LLC with Its License Agreement

FM15-126F

EXECUTIVE SUMMARY

The objective of the audit was to determine whether Statue Cruises, LLC (Statue Cruises) and the Department of Parks and Recreation (Parks) implemented the recommendations made by the New York City Comptroller (the Comptroller) in a prior audit report, *Audit Report on the Compliance of Statue Cruises, LLC with Its License Agreement*, Audit No. FM12-122A, issued on July 2, 2013.

On December 12, 2007, New York City (the City), through Parks, entered into a 10-year license agreement with Statue Cruises for the operation and maintenance of three landing facilities in Battery Park, Manhattan, at slips 3, 4, and 5, and adjacent walkways. Statue Cruises uses these three slips to operate passenger ferries between Battery Park and Liberty and Ellis Islands, national landmarks operated by the National Park Service. Approximately four million people visit these locations each year. The National Park Service has a contract with Statue Cruises to transport passengers between Battery and Liberty State Parks and to allow those passengers to disembark onto Liberty and Ellis Islands. Also, in accordance with its license agreement with Parks, Statue Cruises offers day and night charter boat services around the New York harbor from slips 1 or 2 in Battery Park.

In the Comptroller's prior audit of Statue Cruises, the audit found that Statue Cruises did not have adequate internal controls to properly account for its revenue reporting activities. Consequently, the prior audit could not determine whether all revenue had been reported accurately. However, the audit found that, at a minimum, Statue Cruises underreported revenue by at least \$809,926 and owed the City \$83,369 (\$64,794 in additional license fees plus \$18,575 in late fees). The prior audit also found that Statue Cruises had not paid certain City and State taxes since 2008 because it claimed an interstate commerce exemption which had not previously been asserted by a predecessor company using the same routes. If Statue Cruises' tax position is found to be incorrect, this could result in a multi-million dollar tax liability for the company. The prior report made eight recommendations, three to Statue Cruises and five to Parks.

Audit Findings and Conclusion

In this follow-up audit, we assessed the implementation status of the eight recommendations made in the prior audit report. Of those recommendations, we determined that one recommendation was implemented, four recommendations were partially implemented, two recommendations were not implemented, and one recommendation is no longer applicable. Of the internal control weaknesses disclosed in the prior audit, this audit found that Statue Cruises has still not completely resolved its internal control issues related to missing ferry ticket numbers, it does not use pre-numbered charter events invoices, and it persists in not fully separating its New York City operations from its New Jersey operations in its financial books and records. In addition, Parks did not conduct periodic reviews of Statue Cruises' internal control procedures as recommended. Consequently, we cannot be reasonably assured of the completeness of Statue Cruises' reported gross revenue and its payment of license fees. With regard to the tax exemption claimed by Statue Cruises for the City and State general corporation taxes, this audit determined that while Parks referred the matter to the Department of Finance (DOF) as recommended in 2013, there has been no resolution by DOF and no recent follow-up action by Parks.

Audit Recommendations

To address the issues that still exist, we recommend that Statue Cruises:

- Resolve the issue of missing ticket numbers identified in this report.
- Hire a fiscal consultant to review the internal controls to ensure the completeness of reported gross revenue.

To address the issues that still exist, we recommend that Parks:

- Ensure that Statue Cruises implements the recommendations made in this report.
- Include within its Audit Plan a periodic review of whether Statue Cruises maintains an adequate system of internal controls, reports all revenue, and pays the appropriate license fees.
- Submit a formal follow-up request to the Commissioner of DOF requesting an expedited resolution on the outstanding tax issue. If it is determined that Statue Cruises must pay the necessary tax, Parks, in conjunction with DOF, should ensure immediate payment of any taxes, interest, and penalties that may be assessed.

Statue Cruises and Parks Responses

Statue Cruises officials generally agree with the report's conclusions and recommendations, although they contend that Statue Cruises' existing financial controls make it unnecessary for it to issue pre-numbered invoices. They further state that they have already taken actions to begin implementing the two recommendations made in this audit report. Parks officials generally agree with the report's conclusions and recommendations.

AUDIT REPORT

Background

On December 12, 2007, the City, through Parks, entered into a 10-year license agreement with Statue Cruises for the operation and maintenance of three landing facilities in Battery Park, Manhattan, at slips 3, 4, and 5, and adjacent walkways. Statue Cruises uses these three slips to operate passenger ferries between Battery Park and Liberty and Ellis Islands, national landmarks operated by the National Park Service. Approximately four million people visit these locations each year. The National Park Service has a contract with Statue Cruises to transport passengers between Battery and Liberty State Parks and to allow those passengers to disembark onto Liberty and Ellis Islands. Also, in accordance with its license agreement with Parks, Statue Cruises offers day and night charter boat services around the New York harbor from slips 1 or 2 in Battery Park.¹

Pursuant to its license, Statue Cruises is required to pay the City the greater of a minimum annual fee of \$2 million or eight percent of its annual gross receipts for its initial five operating years (2008 to 2012) of the license, which increases to eight and a half percent for the remaining five operating years (2013 to 2017). Further, Statue Cruises must submit a monthly statement of gross receipts due on or before the 30th day of the following month, and a summary report of gross receipts for each operating year within 60 days of the year's end. For operating year 2014 (January 1, 2014 to December 31, 2014), Statue Cruises reported approximately \$57.43 million in gross receipts to Parks and paid approximately \$4.88 million in license fees.

Statue Cruises sells tickets at multiple Point-of-Sale (POS) locations that it maintains, including ticket offices at Battery Park and Liberty State Park in New Jersey.² In addition, it maintains a call center in California, a group sales call center, and a web store (found at www.statuecruises.com).

A prior audit of Statue Cruises, *Audit Report on the Compliance of Statue Cruises, LLC with Its License Agreement* (Audit No. FM12-122A, issued on July 2, 2013), concluded that Statue Cruises did not have adequate internal controls to properly account for its revenue reporting activities. Consequently, the prior audit could not determine whether all revenue had been reported accurately. However, the audit found that, at a minimum, Statue Cruises underreported revenue by at least \$809,926 and owed the City \$83,369 (\$64,794 in additional license fees plus \$18,575 in late fees). The prior audit also found that Statue Cruises had not paid certain City and State taxes since 2008 because it claimed an interstate commerce exemption which had not previously been asserted by a predecessor company using the same routes. If Statue Cruises' tax position is found to be incorrect, this could result in a multi-million dollar tax liability for the company. The prior report made eight recommendations, three to Statue Cruises and five to Parks.

¹ Statue Cruises operated a sightseeing cruise (Harbor Cruise) from slip 3 until October 22, 2012. Subsequent to the termination of its Harbor Cruise operation, Statue Cruises, with Parks' approval, sublicensed slip 2 to Manhattan by Sail (an affiliate of Hornblower, Inc. which is the holding company for Statue Cruises) for the operation and maintenance of a harbor tour business for the public, effective May 7, 2014.

² An electronic POS terminal is a computerized replacement for a cash register. Statue Cruises' POS system has the ability to record and track customer orders, process credit and debit cards, and record the receipt of cash.

Objective

To determine whether Statue Cruises and Parks implemented the recommendations made in the prior audit report.

Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. 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 objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The audit scope was July 2015. Please refer to the “Detailed Scope and Methodology” section at the end of this report for the specific procedures and tests that were conducted.

Discussion of Audit Results with Statue Cruises and Parks

The matters covered in this report were discussed with Statue Cruises and Parks officials during and at the conclusion of this audit. A preliminary draft report was sent to Statue Cruises and Parks and was discussed at an exit conference on December 21, 2015. On January 11, 2016, we submitted a draft report to Statue Cruises and Parks with a request for comments. We received written responses from Statue Cruises and Parks on January 20, 2016, and January 26, 2016, respectively.

Statue Cruises officials generally agreed with the report's conclusions and recommendations. In its response, Statue Cruises stated that “Statue Cruises and Gateway Ticketing Systems do rely on ticket issuance and sequential ticket numbers as key accounting controls.” Statue Cruises, however, contended that the 14 missing ticket numbers identified in this report were due to a print error and would not result in any potential misstatement of revenue. Further, Statue Cruises agreed to engage its external auditors to review the internal controls for proper reporting of gross revenue. With respect to the internal control weaknesses noted in charter events, Statue Cruises considered that the pre-numbered contract serves as the fundamental document that creates the audit trail, and as a result, pre-numbered invoices were not necessary.

In their response, Parks officials agreed with this audit report's conclusions and recommendations and stated that they will work with Statue Cruises to ensure that any remaining issues continue to be resolved.

The full texts of Statue Cruises' and Parks' responses are included as addenda to this report.

RESULTS OF FOLLOW-UP AUDIT

In this follow-up audit, we assessed the implementation status of the eight recommendations made in the prior audit report. Of those recommendations, we determined that one recommendation was implemented, four recommendations were partially implemented, two recommendations were not implemented, and one recommendation was no longer applicable.

Previous Finding: Statue Cruises Operations Have “Material Internal Control Weaknesses”

The previous audit concluded that Statue Cruises did not have adequate internal controls to properly account for its revenue reporting activities. As a result, the auditors could not determine whether all revenue had been reported. For example, there were 108 instances from March through August 2012 where Statue Cruises could not account for a total of 45,569 ticket numbers in the monthly sales journals for its ferry operation. Assuming these ticket numbers reflected ticket purchases that were not reported, that would mean that there was unreported revenue of approximately \$592,397 during this period. In addition, the audit found that Statue Cruises did not use an electronic POS system or a functioning cash register to record and process transactions for its Harbor Cruise sightseeing operation. As a result, there was no record of each sales transacted. Further, a review of the rental agreements of charter boats and the Parks' Temporary Use Authorization (TUA) found that there was a total of \$217,529 in charter event and TUA revenue that was not reported.³ Therefore, at a minimum, Statue Cruises underreported revenue by at least \$809,926 and owed the City \$83,369 (\$64,794 in additional license fees plus \$18,575 in late fees).

In addition, the previous audit found that Statue Cruises did not segregate its books and records for its New York operations from its New Jersey operations. Rather, the gross receipts Statue received from both New York and New Jersey are recorded in the same general ledger and deposited in the same bank account. Although the revenue from the New Jersey operation can be separately identified on the reports generated by the POS system, it would be difficult to accurately reconcile all of the reported gross receipts without a full separate audit of the New Jersey operation.

Previous Recommendation #1 to Statue Cruises: “Statue Cruises should immediately remit \$83,369 in additional license fees and late charges due the City.”

Previous Statue Cruises Response: Statue Cruises did not address this recommendation.

Current Status: IMPLEMENTED

In July 2013, Statue Cruises paid the \$83,369 in additional license fees and late charges due the City. A copy of the canceled check was provided by Parks, and the audit team determined that this recommendation has been implemented.

³ Should Statue Cruises want to temporarily use slips 1 or 2 in Battery Park, it must obtain a Temporary Use Authorization (formal approval) from Parks.

Previous Recommendation #2 to Statue Cruises: “Statue Cruises should hire a reputable outside consultant to implement the necessary internal controls that would conform to the requirements of the license agreement.”

Previous Statue Cruises Response: Statue Cruises did not address this recommendation.

Current Status: PARTIALLY IMPLEMENTED

On August 15, 2013, Statue Cruises hired an IT consultant who, pursuant to the language in the consultant’s contract, was required to “review SC’s [Statue Cruises] Point-of-Sale system and related procedures in order to identify and eliminate any internal control weaknesses and to make such recommendations, as appropriate, to address any possible financial risks.” According to the correspondence between Statue Cruises and the IT consultant, after starting field work and testing in the beginning of January 2014, the IT consultant made several recommendations in his first letter report on January 15, 2014. Throughout 2014 and 2015, the consultant and Statue Cruises collaborated to establish policies, procedures, and controls related to Statue Cruises’ Gateway Ticketing POS system. In addition, the consultant verified that proper controls were in place and being followed.

After discussing previous POS issues with Statue Cruises officials, the follow-up audit team was informed that the missing ticket numbers identified in the prior audit had been caused by hard drive failures within its POS. All hard drives at Battery Park have since been replaced and we were informed that no hardware failures have occurred since the last audit and no missing ticket numbers have been documented.

To validate Statue Cruises’ claim, we selected and reviewed the July 2015 sales data from Battery Park, group sales, and call center locations. We then sorted the ticket numbers to identify any gaps or duplications. We found 14 instances where a single ticket number was not recorded in the Gateway system. These instances occurred among 35 of the 42 POS terminals sampled. After we discussed this finding with Statue Cruises, the company referred the issue to Gateway Ticketing Systems, Inc. (Gateway), Statue Cruises’ POS system provider.

In a letter to Statue Cruises, in response to the auditors’ finding, Gateway acknowledged that in the case of the 14 missing ticket numbers in our sample, the software had not recorded the ticket numbers in the sales journal. According to Gateway, its engineers are working to correct the software problem and they concluded that “[t]his issue has been associated with printing errors in which the Galaxy software will automatically void an errored [sic] printing transaction to prevent invalid tickets from being distributed.”

The missing ticket numbers are an indication that internal control weakness still exists in the recording of tickets sold. Consequently, the City cannot be assured that the revenue from all ticket sales is being reported.

Statue Cruises Response: “Statue Cruises and Gateway Ticketing Systems do rely on ticket issuance and sequential ticket numbers as key accounting controls. The report cites 14 instances where a single ticket number was not ‘recorded’ during July 2015 when 418,713 tickets were printed, sold and properly accounted for by Statue Cruises. The 14 ticket numbers represent .00003% of overall sales for the month of July 2015; 1 ticket for approximately every 30,000 tickets printed. The exceptions cited represent a print error or report print error and not a potential misstatement of

revenue possibility. . . . All ticket numbers are accounted for within the Gateway Ticketing System.”

Auditor Comment: As noted, Statue Cruises and Gateway both agreed sequential ticket numbers are key accounting controls. Any missing ticket numbers indicate a potential problem of accountability and they should be promptly identified and resolved immediately to ensure proper reporting of ticket sale revenue.

Previous Recommendation #3 to Statue Cruises: “Statue Cruises should hire a fiscal monitor, to be approved by Parks, that would ensure adherence to established internal controls and proper reporting of gross revenue and license fees.”

Previous Statue Cruises Response: Statue Cruises did not address this recommendation.

Current Status: NOT IMPLEMENTED

Statue Cruises did not hire a fiscal monitor to ensure adherence to established internal controls and proper reporting of gross revenue and license fees. Instead, Statue Cruises relied on its own staff to address issues with proper tracking and reporting of gross revenue and license fees.

To assess whether Statue Cruises properly tracked and reported its gross revenue and license fees, we traced the July 2015 sales journals for tickets sold at Battery Park, group sales and call center locations to the gross receipts statement submitted to Parks. Through this reconciliation, we only noted minor discrepancies. However, although revenue from the New Jersey operation can be separately identified on the reports generated by the POS system, it’s still difficult to accurately reconcile all of the reported gross receipts without a full separate audit of the New Jersey operation.

For charter events, we traced the contracts, invoices, and payment records to Statue Cruises’ charter event log to test the completeness and accuracy of the reported revenue for July 2015. Based on our review, we found that Statue Cruises still has some weaknesses in internal controls. Specifically, Statue Cruises does not use pre-numbered invoices for charter events. Pre-numbered documents are an essential part of creating an audit trail.⁴ We also found for one of the three charter events held in July 2015, an additional charge of \$1,870 that was not reflected in the charter event log. However, the amount of the additional charge was included in Statue Cruises’ reported gross revenue for July 2015.

Based on the internal control weaknesses noted in charter events and the fact that Statue Cruises continues to combine its New York City books and records with those it maintains for its New Jersey operations, we cannot be reasonably assured of the completeness of Statue Cruises’ reported gross revenue and payment of license fees.

Statue Cruises Response: “To better accommodate the City Comptroller’s recommendation, Statue Cruises will engage [its independent auditors] to expand its testing for future audit engagements and provide such reasonable comfort as is

⁴ An audit trail is a step-by-step record by which accounting data can be traced to their source. Questions as to the validity or accuracy of an accounting figure can be resolved by reviewing the sequence of events which leads to the final figure.

possible. Our independent auditors have the requisite skills as well as a deep understanding of Statue Cruises' internal controls and systems.”

Further, Statue Cruises disagreed that internal control weaknesses exist regarding charter events and stated that “[c]ontrol begins and ends with the numbered contracts in our system. Invoices are issued with sequential numbers at such time that a contract is signed and a deposit is received from a customer.”

Auditor Comment: While we are glad that Statue Cruises recognizes the need to conduct an independent internal control review of its Gateway system and related processes, we strongly recommend that such engagement also includes an assessment of key accounting controls over the ticket revenue billing process to ensure Statue Cruises' compliance with its City agreement.

Pre-numbered contracts do in fact begin the audit trail. However, pre-numbered contracts alone do not provide a reasonable assurance that all additional charges billable after a contract is signed have been tracked and reported. Statue Cruises is advised to utilize sequential invoice numbers as an additional accounting control to properly track its revenue.

Previous Recommendation #5⁵ to Parks: “Parks should ensure that Statue Cruises hires an independent consultant to implement the necessary internal controls and that it hires a competent fiscal monitor for the duration of the agreement to ensure proper reporting of gross revenue and license fees in accordance with the license terms.”

Previous Parks Response: “The Report found that Statue did not have adequate internal controls over a portion of its ferry service operation related to gaps in the ticket number sequencing of Statue's Point of Sale ('POS') system, harbor cruises, temporary use authorizations and charter event revenue. Given the technical nature of the internal control weaknesses cited for Statue's ferry service, we believe it is appropriate for Statue to hire an independent consultant with expertise in information technology systems in order to identify and reduce possible risks with respect to POS system operations. Parks will work with Statue to ensure that such a consultant is identified and hired to resolve potential concerns in this regard.

Additionally, as the Comptroller was recently informed Statue will discontinue its harbor cruise service shortly, the area of its operations requiring the most attention from an internal control perspective, once it resumes ferry service to Liberty Island and Ellis Island. In this regard, we acknowledge your concern for a financial monitor and will consider a monitor in the event that harbor cruises are reestablished by Statue or upon future review by Parks.”

Current Status: PARTIALLY IMPLEMENTED

According to Parks, it instructed Statue Cruises to hire an independent consultant with expertise in information technology systems for the POS system. As noted above, Statue Cruises did hire an IT consultant. However, Parks did not ensure Statue Cruises hired a fiscal monitor to oversee

⁵ *Previous Recommendation #4 to Parks* is discussed later in this report in connection with the original audit finding—Statue Cruises Did Not Pay Certain City and State Taxes—Claiming Questionable Exemption.

that appropriate internal control enhancements had been implemented to provide greater assurance of the reliability of the company's gross receipt statements.

Previous Recommendation #6 to Parks: "Parks should issue a Notice-to-Cure requiring that Statue Cruises pay the \$83,369 in additional license fees and late charges due the City, and take action to ensure that Statue Cruises corrects the internal control deficiencies identified in this report."

Previous Parks Response: "The Report found that Statue owes the City an additional \$83,369 in license fees and late charges. . . . Parks has requested payment from Statue for the full amount due of \$83,369. However, we continue to discuss with Statue the matter of fees related to missing ferry service ticket numbers. Statue believes that the missing ticket numbers may not reflect actual tickets sold and not reported, but rather technical problems caused by point of sale terminal crashes and the number sequencing used when a replacement terminal is installed. If Statue can verify to Parks' satisfaction that the missing tickets numbers do not reflect actual sales, Parks may issue Statue a partial credit (in the amount of the verified non-ticket sales) against future license fees."

Current Status: PARTIALLY IMPLEMENTED

Parks provided a copy of a "Notice" that Parks issued to Statue Cruises requiring that it pay the \$83,369 in additional license fees and late charges due the City. Parks subsequently credited Statue Cruises \$30,702 based on its review of the documentation provided. Further, Parks officials claimed that it had ongoing dialogue with Statue Cruises to ensure that Statue Cruises corrected the internal control deficiencies identified in the previous report. However, Parks could not substantiate whether those actions taken by Statue Cruises corrected the internal control deficiencies identified in the previous report. Therefore, based on the actions taken by Parks, we consider this recommendation to be partially implemented.

Further, we questioned Parks' decision to credit the \$30,702 in additional license fees back to Statue Cruises. According to Parks, it based its decision on the "Spiceworks"⁶ document that Statue Cruises submitted to Hornblower, Inc., Statue Cruises' holding company.⁷ The document was a computerized record produced through an application used by Statue Cruises in conjunction with its Gateway system to document incidents such as the hardware failure that occurred at Battery Park. However, in relying solely on this document, Parks disregarded the prior audit's finding that Statue Cruises did not follow its own protocol and procedures on advancing ticket numbers in the event of POS terminal crashes and malfunctions. According to Statue Cruises officials, Statue Cruises is supposed to follow Gateway's normal procedures that require the advancement of the ticket number sequence by five where technical failures occur. However, Statue Cruises departed significantly from this procedure and advanced 29,330 ticket numbers on July 30, 2012. Parks appears to have disregarded the prior audit's finding of a significant procedural irregularity when it decided to credit Statue Cruises \$30,702. We therefore question Parks' determination and the subsequent credit to Statue Cruises of \$30,702.

⁶ Spiceworks is an application that provides the user with helpdesk software that tracks IT incidents and tasks. It streamlines communications, keeps organized trackable records of all issues and allows a resolution schedule to be established and communicated.

⁷ A holding company is a company that owns other companies' outstanding stock. The term usually refers to a company that does not produce goods or services itself; rather, its purpose is to own shares of other companies to form a corporate group.

Previous Recommendation #7 to Parks: “Parks should in conjunction with the National Park Service, consider exercising its rights under section 3.3(a) of the license agreement if Statue Cruises does not comply with the Notice-to-Cure.”⁸

Previous Parks Response: “In the event that it becomes appropriate to consider exercising section 3.3(a) of the license agreement, we will consult with the National Park Service.”

Current Status: NOT APPLICABLE

According to Parks officials, since Statue Cruises had paid the additional license fees in July 2013 and had committed to addressing the prior report’s recommendations, there was no need for Parks to exercise section 3.3(a) of the license agreement.

Previous Recommendation #8 to Parks: “Parks should periodically evaluate Statue Cruises’ internal control procedures to ensure that Statue Cruises maintains an adequate system of internal controls, reports all revenue, and pays the appropriate license fees.”

Previous Parks Response: “Parks will periodically evaluate Statue's internal control system as described in our response to Recommendation 5.”

Current Status: NOT IMPLEMENTED

According to Parks officials, Parks has not conducted any periodic reviews of Statue Cruises’ operation. Parks decided that due to its limited resources and because Statue Cruises terminated its Harbor Cruise operation, an area where most of the internal control weakness identified in the prior audit occurred, it would rely upon the assessment performed by Statue Cruises’ IT consultant and schedule its own follow-up audit at a later date. Parks officials further added that upon receiving notification that the City Comptroller’s Office was initiating a follow-up audit, Parks decided to postpone engaging in a review until it received the results of this audit.

Parks did not fully exercise its responsibility to ensure that Statue Cruises effectively implemented the necessary controls recommended in the prior audit. Adequate oversight by Parks is important for verifying that City concessionaries are properly carrying out the terms of their agreements and reporting all required revenue to the City.

Previous Finding: “Statue Cruises Did Not Pay Certain City and State Taxes—Claiming Questionable Exemption”

The previous audit found that Statue Cruises did not pay City and State general corporation taxes in 2011, claiming that it is exempt from such taxes. Statue Cruises has maintained the same position since it obtained the license in 2008, and has not paid City and State general corporation taxes for five years. Considering that Statue Cruises has generated at least \$33 million a year in revenue since 2008, this could result in a substantial tax liability should the exemption not apply. In 2006, Statue Cruises’ predecessor, Circle Line-Statue of Liberty Ferry Inc. (Circle Line), filed a

⁸ Section 3.3 (a) states “[s]hould Licensee breach or fail to comply with any of the provisions of this License, any federal, state or local law, rule, regulation or order affecting the License or the Licensed Premises . . . then this License shall immediately terminate upon the written notice of Commissioner to Licensee advising that the License is terminated.”

New York City general corporation tax return and paid the City in excess of \$650,000 in tax. Circle Line's operations were nearly identical to Statue Cruises.

Previous Recommendation #4 to Parks: "Parks should coordinate efforts with the appropriate taxation authorities to address Statue Cruises' non-payment of taxes. If found that Statue Cruises must pay the necessary tax, Parks should ensure immediate payment of any taxes, interest, and penalties that may be assessed."

Previous Parks Response: "Parks has referred the recommendation to the appropriate taxation authority to pursue the determination with Statue Cruises."

Current Status: PARTIALLY IMPLEMENTED

According to Parks officials, before the prior final audit report was finalized, Parks had initiated contact with DOF regarding the general corporation tax issue identified in the previous audit. In addition, on October 20, 2014, Parks responded to a Comptroller's office request for an updated status on the implementation of the previous audit's recommendations and noted that it had followed up with DOF, but that no final determination had been made. As of December 14, 2015, this issue remains open.

Although Parks demonstrated that it made efforts to coordinate and address Statue Cruises' tax issue in May 2013, we were not provided with subsequent documentation that indicates any follow-up by Parks.

Statue Cruises Response: "To date, DOF has concluded its review of Statue Cruises' NYC General Corporation tax returns for six years and has notified Statue Cruises that DOF has decided not to conduct a complete audit of those tax returns. No additional tax was assessed. Statue Cruises has granted to DOF an additional extension of two years of the statutory period of limitations so that DOF may complete its audit review."

Auditor Comment: The tax issue may not be resolved until 2017 as a result of the two year extension given DOF for its review. Given the potential amount of tax revenue at issue and the possible two-year delay, we urge Parks to formally request that DOF expedite a final resolution of the tax issue.

Recommendations

To address the issues that still exist, we recommend that Statue Cruises:

1. Resolve the issue of missing ticket numbers identified in this report.

Statue Cruises Response: The 14 instances where a single ticket was not recorded represent a print error or report print error and not a potential misstatement of revenue possibility.

Auditor Comment: Although Statue Cruises identified the potential cause of the missing ticket numbers, it needs to ensure that Gateway takes appropriate action to correct that issue. In addition, Statue Cruises needs to periodically review the sales journals to ensure that all tickets are being accounted for.

2. Hire a fiscal consultant to review the internal controls to ensure the completeness

of reported gross revenue.

Statue Cruises Response: “To better accommodate the City Comptroller’s recommendation, Statue Cruises will engage [its independent auditors] to expand its testing for future audit engagements and provide such reasonable comfort as is possible. Our independent auditors have the requisite skills as well as a deep understanding of Statue Cruises’ internal controls and systems.”

To address the issues that still exist, we recommend that Parks:

3. Ensure that Statue Cruises implements the recommendations made in this report.

Parks Response: “Parks will work with Statue Cruises to ensure that any remaining issues of missing ticket numbers continue to be resolved and that their accounting firm evaluates their internal controls.”

4. Include within its Audit Plan a periodic review of whether Statue Cruises maintains an adequate system of internal controls, reports all revenue, and pays the appropriate license fees.

Parks Response: “Parks was in the planning phases of initiating an internal audit of Statue Cruises when we were alerted of the NYC Comptroller’s Office’s intent to perform their own follow-up audit. Now that this Report is complete, Parks will periodically evaluate Statue Cruises’ operations.”

5. Submit a formal follow-up request to DOF’s Commissioner requesting an expedited resolution on the outstanding tax issue. If it is determined that Statue Cruises must pay the necessary tax, Parks, in conjunction with DOF, should ensure immediate payment of any taxes, interest, and penalties that may be assessed.

Parks Response: “Parks notified the NYC Department of Finance (DOF) of the tax issue identified in the prior audit report. Parks has followed up with DOF’s Director of Internal Audits regarding the current status of this matter and has advised that Parks is ready to assist if DOF finds that Statue Cruises owes any additional taxes.”

Auditor Comment: Although Parks initiated action with DOF as a result of the recommendations made in the prior audit and informally contacted DOF, we recommend that Parks also submit a formal follow-up request to DOF’s Commissioner requesting an expedited resolution to help ensure that the tax issue be resolved as quickly as possible.

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. 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 objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The audit scope was July 2015. To obtain an understanding of Statue Cruises' efforts in implementing our prior audit report's recommendations, we reviewed the prior Statue Cruises audit report issued by the City Comptroller entitled *Audit Report on the Compliance of Statue Cruises, LLC with Its License Agreement*, Audit No. FM12-122A, issued on July 2, 2013. In addition, we reviewed the license agreement and supporting appendices between Statue Cruises and Parks. To obtain an understanding of Statue Cruises' implementation of our prior report's recommendations, we interviewed Statue Cruises officials and documented our understanding of their efforts through written narratives.

To obtain an understanding of Parks' efforts in implementing our prior audit report's recommendations, we interviewed Parks officials and documented our understanding of Parks' efforts through written narratives.

To determine whether Statue Cruises paid the additional license fees of \$83,369, we obtained Statue Cruises' canceled check to Parks.

To determine whether Statue Cruises hired a reputable consultant to implement the necessary internal controls, we asked Statue Cruises officials to explain their efforts in soliciting the consultant and reviewed a copy of the consultant's resume and contract. In addition, we evaluated the consultant's annual reports that addressed Statue Cruises' internal control issues over its POS system and Statue Cruises officials' responses to the consultant's recommendations. To determine whether the missing ticket issues were properly resolved, we analyzed Statue Cruises' sales journals for July 2015, the month with the highest reported gross receipts in 2015. Sales journals from Battery Park, group sales and the call center were analyzed to determine whether there were any missing or duplicated ticket numbers. In addition, we utilized Statue Cruises' Ticket Look Up and Microsoft SQL Server Management Studio software to search for any missing ticket numbers that did not appear in the July 2015 sales journals.

To determine whether Statue Cruises properly reported its gross receipts and paid the appropriate license fees, we reviewed the supporting documentation for the gross receipts reported for July 2015. Specifically, we reviewed the July 2015 charter event log and the related contracts and invoices. We also analyzed the sales journal and adjusting entries used to determine gross receipts. We then summarized and traced the fares, audio fees, charters, and other revenues to the July 2015 gross receipts statement for accuracy and consistency. We also reviewed Parks' records to determine whether the license fee paid for July 2015 was properly calculated and collected.

To ascertain Parks' efforts regarding the status of Statue Cruises' tax issue, we interviewed Parks officials and reviewed Parks' correspondence related to Statue Cruises' tax issue. In addition, we

interviewed Statue Cruises officials regarding the status of DOF's review of Statue Cruises' general corporation tax issue that was brought up in the previous audit report.

Implementation Status of Recommendations from Prior Report
As of December 14, 2015

Recommendations	Status
Statue Cruises should:	
Immediately remit \$83,369 in additional license fees and late charges due the City.	Implemented
Hire a reputable outside consultant to implement the necessary internal controls that would conform to the requirements of the license agreement.	Partially Implemented
Hire a fiscal monitor, to be approved by Parks, that would ensure adherence to established internal controls and proper reporting of gross revenue and license fees.	<u>NOT</u> Implemented
Parks should:	
Ensure that Statue Cruises hires an independent consultant to implement the necessary internal controls and that it hires a competent fiscal monitor for the duration of the agreement to ensure proper reporting of gross revenue and license fees in accordance with the license terms.	Partially Implemented
Issue a Notice-to-Cure requiring that Statue Cruises pay the \$83,369 in additional license fees and late charges due the City, and take action to ensure that Statue Cruises corrects the internal control deficiencies identified in this report.	Partially Implemented
In conjunction with the National Park Service, consider exercising its rights under section 3.3 (a) of the license agreement if Statue Cruises does not comply with the Notice-to-Cure.	Not Applicable
Periodically evaluate Statue Cruises' internal control procedures to ensure that Statue Cruises maintains an adequate system of internal controls, reports all revenue, and pays the appropriate license fees.	<u>NOT</u> Implemented
Coordinate efforts with the appropriate taxation authorities to address Statue Cruises' non-payment of taxes. If found that Statue Cruises must pay the necessary tax, Parks should ensure immediate payment of any taxes, interest, and penalties that may be assessed.	Partially Implemented

Statue Cruises, LLC
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CRRNJ Terminal at Liberty State Park
Jersey City, NJ 07305
www.statuecruises.com



January 13, 2016

Ms. Marjorie Landa
Deputy Comptroller For Audit
The City of New York
Office of the Comptroller
Bureau of Audit
1 Centre Street – Room 1100
New York, NY 10007

Dear Ms. Landa:

Statue Cruises appreciates the opportunity to participate in the Comptroller's Office Follow-Up Audit on the compliance of Statue Cruises, LLC with its License Agreement. Statue Cruises has made every effort to embrace the original audit recommendations and to continually strive to improve our internal control environment to best serve our customers and governmental partners.

Regarding Previous Recommendation #2 and testing results on July 2015 data: Statue Cruises and Gateway Ticketing Systems do rely on ticket issuance and sequential ticket numbers as key accounting controls. The report cites 14 instances where a single ticket number was not "recorded" during July 2015 when 418,713 tickets were printed, sold and properly accounted for by Statue Cruises. The 14 ticket numbers represent .00003% of overall sales for the month of July 2015; 1 ticket for approximately 30,000 tickets printed. The exceptions cited represent a print error or report print error and not a potential misstatement of revenue possibility. For example, when ticket stock jammed or otherwise failed, a de facto void or invalid number resulted, with no ticket issued. All ticket numbers are accounted for within the Gateway Ticketing System.

In its Previous Recommendation #3, the Comptroller's Office recommended that Statue Cruises should hire a "fiscal monitor" to ensure adherence to established internal controls and proper reporting of gross revenue and license fees. Statue Cruises' financial statements are audited annually by a licensed, independent CPA firm. Our external auditors, RINA Accountancy Corp., annually render an unqualified opinion upon the financial statements of Hornblower and Its Affiliates including Statue Cruises. We have been advised that the level of testing and system review procedures generally performed by RINA is not intended to render a stand-alone opinion regarding the Gateway System and related processes. To better accommodate the City Comptroller's recommendation, Statue Cruises will engage RINA to expand its testing for future audit engagements and provide such reasonable comfort as is possible. Our

independent auditors have the requisite skills as well as a deep understanding of Statue Cruises' internal controls and systems.

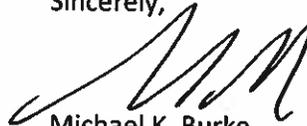
Further, Statue Cruises initiated additional procedures in 2014 for internal audit including review of revenue reporting and ticketing system operations in addition to those already in place regarding cash handling and ticket office activities. Moreover, Statue Cruises engaged an IT consultant with unique qualifications and familiarity with Gateway Ticketing Systems in late 2013. This independent consultant periodically reviews Statue Cruises' ticketing system performance and functionality. His expertise significantly adds to Statue Cruises overall system of accounting controls.

One audit finding may be resolved by way of clarification. The Comptroller's Report notes that Statue Cruises does not use pre-numbered invoices for charter events. In Statue Cruises' accounting system the pre-numbered contract serves as the fundamental document that creates the audit trail. Statue Cruises does not use pre-printed, manual invoices as part of our computerized system. However, we do establish accountability for potential revenue from charter events when the customer signs a contract. These documents are issued following a strict, numbered sequence and are uniquely associated with the charter, whether or not the services are ultimately rendered (whereby an invoice is issued) or the charter is cancelled (with the contract voided). Therefore, Statue Cruises respectfully disagrees that noteworthy internal control weaknesses exist regarding our charter events. Control begins and ends with the numbered contracts in our system. Invoices are issued with sequential numbers at such time that a contract is signed and a deposit is received from a customer. The invoices themselves are of course subject to additional controls.

Regarding Previous Recommendation #6, the tax structure and Statue Cruises' qualification for specific exemption is a complex subject. Statue Cruises most certainly has fully cooperated with the New York City Department of Finance ("DOF") in all its inquiries which were initiated at the recommendation of the Comptroller's Office, and referred by the New York City Department of Parks & Recreation. To date, DOF has concluded its review of Statue Cruises' NYC General Corporation tax returns for six years and has notified Statue Cruises that DOF has decided not to conduct a complete audit of those tax returns. No additional tax was assessed. Statue Cruises has granted to DOF an additional extension of two years of the statutory period of limitations so that DOF may complete its audit review.

Statue Cruises again thanks the Comptroller's Office for their diligence and professionalism.

Sincerely,



Michael K. Burke

Vice President & Chief Operating Officer

Cc: David Cerron
Philip Abramson
Michael Morgese, Jr.
Konstantin Reztsov
George Davis
Susanna Ho

Bcc: George Lence
Laura Rothrock



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City of New York
Parks & Recreation

The Arsenal
Central Park
New York, NY 10065
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January 26, 2016

Marjorie Landa
Deputy Comptroller for Audit
City of New York Office of the Comptroller
1 Centre Street, Room 1100
New York, NY 10007

Re: New York City Comptroller's Draft Follow-Up Audit Report on the Compliance of Statue Cruises, LLC with its License Agreement; FM15-126F

Dear Deputy Comptroller Landa:

This letter addresses the findings and recommendations contained in the New York City Comptroller's Draft Follow-Up Audit Report ("Report"), dated January 11, 2016, on the above subject matter.

Since 2008, Statue Cruises has provided the service of transporting millions of New Yorkers and visitors to the Statue of Liberty and Ellis Island. In that time, they have paid the City of New York more than \$27 million in license fees. Statue Cruises maintains their required security deposit, carries the required insurance, submits the required reports, and pays its license fees in a timely manner. Statue Cruises has also implemented significant improvements in correcting the internal control weaknesses cited in the prior audit report.

This Report contains five recommendations. Recommendations 1-2 were directed to Statue Cruises. Recommendations 3-5 were directed to Parks.

In reference to the recommendations directed to Statue Cruises:

Recommendation 1 – Resolve the issue of missing ticket numbers identified in this report.

At the conclusion of the release of the prior audit report, Statue Cruises hired an IT consultant to implement improvements in their Point-of-Sale (POS) system. We are pleased that, based on samples, Statue Cruises has substantially reduced the number of missing tickets. This Report only found 14 instances out of 418,713 single-month sales, where a single ticket number was not recorded. Statue Cruises' POS system provider cited a software glitch which they are working to correct. While Parks agrees that there is room for improvement, we believe that Statue Cruises has demonstrated their commitment toward strengthening their internal controls.

Recommendation 2 – Hire a fiscal consultant to review the internal controls to ensure the completeness of reported gross revenue.

The Report cites that the previous recommendation for Statue Cruises to hire a fiscal consultant was not implemented. However, neither Statue Cruises nor Parks agreed to that recommendation. Through Statue Cruises' hiring of an IT consultant, the internal control deficiencies in their POS system

were largely resolved. Further, Statue Cruises discontinued their harbor cruise service – the area of its operations that required the most attention from an internal control perspective. It is our understanding that Statue Cruises will direct their accounting firm to evaluate their internal controls as part of their annual audit engagement.

Below is our response to those recommendations directed to Parks.

Recommendation 3 – Ensure that Statue Cruises implements the recommendations made in this report.

Parks will work with Statue Cruises to ensure that any remaining issues of missing ticket numbers continue to be resolved and that their accounting firm evaluates their internal controls.

Recommendation 4 – Include within its Audit Plan a periodic review of whether Statue Cruises maintains an adequate system of internal controls, reports all revenue, and pays the appropriate license fees.

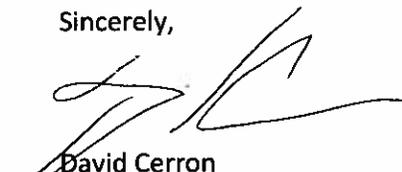
Parks was in the planning phases of initiating an internal audit of Statue Cruises when we were alerted of the NYC Comptroller Office’s intent to perform their own follow-up audit. Now that this Report is complete, Parks will periodically evaluate Statue Cruises’ operations.

Recommendation 5 – Submit a formal follow-up request to DOF’s Commissioner requesting an expedited resolution on the outstanding tax issue. If found that Statue Cruises must pay the necessary tax, Parks, in conjunction with DOF, should ensure immediate payment of any taxes, interest, and penalties that may be assessed.

Parks notified the NYC Department of Finance (DOF) of the tax issue identified in the prior audit report. Parks has followed up with DOF’s Director of Internal Audits regarding the current status of this matter and has advised that Parks is ready to assist if DOF finds that Statue Cruises owes any additional taxes.

Finally, Parks wishes to thank you and your audit staff for the time and effort devoted to completing this report.

Sincerely,



David Cerron
Chief Accountant, NYC Parks

CC: Michael Burke, Vice President & Chief Operating Officer, Statue Cruises, LLC

George Davis III, Director of Audit Services, Office of the Mayor

Alyssa Cobb Konen, Assistant Commissioner, NYC Parks

Phil Abramson, Director of Revenue Communications, NYC Parks