

**TOWN OF CALHOUN FALLS MUNICIPAL COURT
CALHOUN FALLS, SOUTH CAROLINA**

STATE AUDITOR'S REPORT

JUNE 30, 2014

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GEORGE L. KENNEDY, III, CPA
STATE AUDITOR

2. Municipal Treasurer

- x I gained an understanding of the policies and procedures established by the municipal treasurer to determine timely reporting by the municipality.
- x I obtained copies of all court remittance forms or equivalents and tested each monthly remittance form to determine that the forms were completed in accordance with instructions and submitted timely in accordance with State law.
- x I verified that amounts reported on the monthly court remittance forms or equivalents agreed to the municipality's support.
- x I scanned the municipality's support to determine if the municipality had misclassified fine, fee, assessment, and surcharge receipts.
- x I obtained copies of all State Treasurer's Revenue Remittance forms for the period July 1, 2013 through June 30, 2014. I vouched the amounts reported on the State Treasurer's Revenue Remittance Forms to the court remittance forms or equivalents.
- x I verified that the amounts reported by the municipality on its supplemental schedule of fines and assessments agreed to the municipality's support.
- x I determined that the municipality's supplemental schedule of fines and assessments contained all the required elements in accordance with state law.

My findings as a result of these procedures are presented in Timely, Accurate Recording and Reporting by the Town Treasurer, Court Cash Receipt Procedures, Monthly Reconciliations, and Court Software in the Accountant's Comments section of this report.

3. Victim Assistance

- x I gained an understanding of the policies and procedures established by the municipality to determine proper accounting for victim assistance funds.
- x I made inquiries and performed substantive procedures to determine that any funds retained by the municipality for victim assistance were deposited into a separate account.
- x I tested selected expenditures to determine that the municipality expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.
- x I determined that the municipality reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with applicable State law.

The Honorable Nikki R. Haley, Governor
and
The Honorable Dennis C. Banister, Jr., Chief Judge
Town of Calhoun Falls Municipal Court
November 9, 2015

- x I verified that the amounts reported by the municipality on its supplemental schedule of fines and assessments applicable to the Victim Assistance fund agreed to the Municipality's support.
- x I inspected the Municipality's victim assistance bank account to determine if the Victim Assistance fund balance was retained as of July 1 from the previous fiscal year in accordance with State law.

My findings as a result of these procedures are presented in Supplementary Schedule and Victim Assistance Funds in the Accountant's Comments section of this report.

4. Calculation of (Over)/Under Reported Amounts

- x I obtained the Assistant Town Administrator's analysis of State Revenue Remittance forms and deposits from the Town Court for the 36 month period ended June 30, 2014. I calculated the amount under reported by the Municipality by category.

The results of my procedures disclosed that the Municipality under reported amounts due to the State and over reported amounts due the Victim Assistance Fund. My finding as a result of these procedures is presented in (O00vant's 0824 Tw Tw 0 Tr 3 -1 Td0.d30

ACCOUNTANT'S COMMENTS

SECTION A -VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS

Management of the entity is responsible for establishing and maintaining internal controls to determine compliance with State Laws, Rules or Regulations governing court collections and remittances. The procedures agreed to by the entity require that I plan and perform the engagement to determine whether any violations of State Laws, Rules or Regulations occurred.

The conditions described in this section have been identified as violations of State Laws, Rules or Regulations.

I recommend the Town adhere to trying cases within their jurisdiction.

COURT RECORDS RETENTION

During my testing of the twenty-five UTT supporting the Town's State Treasurer's Revenue Remittance Forms [STRRF], Town personnel could not provide me with 13 UTT, 11 receipts and six allocation spreadsheets used to support the numbers on the STRRF. One UTT provided had the 'Violation Section' blank. This missing information for 14 UTT made verification of the charge impossible. I therefore was unable to verify if fourteen individuals in these cases were sentenced in accordance with State law because of this lack of support. Also, I was unable to trace any information for six UTT into the STRRF, receipting system or bank account. By relying on the court software, extant UTT copies and prenumbered receipts copies, I was able to trace and determine that 19 UTT were in agreement with the partial information provided and posted to the STRFF. Because of a lack of records related to reconciling deposits, I was unable to trace any of the 25 UTT into the bank account. See the 'Monthly Reconciliations' finding in Section B below.

Section 14-1-208 (E)(4) of the 1976 South Carolina Code of Laws, as amended, states, "The clerk of court and municipal treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection in the format determined by the municipal governing body and make those records available for review." In addition, South Carolina Court Administration's Summary Court Bench Book, Memoranda 1996-03, sets forth retention as amended, f court and mi

ALLOCATION SPREADSHEET ERRORS

Within the boundaries of the limited documents provided (see 'Court Records Retention' finding above), the Clerk of Court's spreadsheet contained the following general and specific errors:

Installment Fee

During my testing of Municipal Court collections and remittances, I noted four instances where the Town assessed and collected the three percent installment fee from individuals who paid the total amount due in one payment after the court date.

During my test of Municipal Court collections and remittances, I noted five instances where the Court did not assess and collect the three percent installment fee from individuals who paid in installments.

As this three percent fee is for the Town, it should not be included in the STRRF related amounts. The allocation spreadsheet does not segregate it so it is included in the fine and assessment allocation portions.

Section 14-17-725 of the 1976 South Carolina Code of Laws, as amended, states, "...where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court, magistrate, or municipal court from the defendant..."

The current Court Clerk stated "you have been provided all the records we have, all that there is".

I recommend the Municipal Court implement procedures to ensure the installment fee is charged, collected and allocated in accordance with State law.

Proration of Installment Payments

The spreadsheet does not allocate fines paid on an installment basis ratably to all fine, assessment and surcharge categories as required. It is set up to allocate full surcharge amounts on every payment entered, including partial payments, and by doing so does not allocate enough of the payment to the fine and assessment portions. In some cases I tested, the fine and assessment portions were negative, thus deducting from the amount owed the Town and the State for their share of other fine and assessment allocations and therefore overpaying the surcharge portions.

The Judicial Department memo dated June 28, 2013 Section A.14 states "Section 14-1-209 provides guidance when the fine and assessment are paid in installments. The intent of Section 14-1-209(C) is that each installment payment be allocated on a pro rata basis to each

added to any punishment imposed And Section 14-1-211 (A) (2) of the 1976 South Carolina Code of Laws, as amended, states, "In addition to all other assessments and surcharges, a one hundred dollar surcharge is imposed on all convictions pursuant to Section 56-5-2930 and Section 56-5-2933.

The current Court Clerk stated that the spreadsheet errors have been corrected.

I recommend the Clerk of Court assess surcharges in accordance with State law.

Driving Under Suspension [DUS] Pullout

Four DUS cases I tested did not include the \$100 DUS pullout.

Section 56-1-460 (C) of the 1976 South Carolina Code of Laws, as amended, states, "One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol."

The current Court Clerk stated that the spreadsheet errors have been corrected.

I recommend the Clerk of Court assess fines in accordance with State law.

Public Defender Application Fee

During my testing I observed one public defender application fee transmitted on one spreadsheet. It was classified as Town general fund revenue, not State revenue.

Section 17-3-30(B) of the 1976 South Carolina Code of Laws, as amended, states, "A forty dollar application fee for public defender services must be collected ... and remit the proceeds to the state fund on a monthly basis."

The current Court Clerk stated that the spreadsheet errors have been corrected.

I recommend the Clerk of Court assess fees in accordance with State law.

Spreadsheet Errors - General

One ticket tested had no surcharges assessed. One receipt of a total fine payment for two tickets was listed as one single payment, assessed one set of surcharges and reported on a STRRF as if it were a single offense payment. All speeding tickets are listed on the spreadsheet as 'less than 10 MPH over the limit' even though the fines include different offenses; for example 'over 25 MPH over the limit'.

The relevant sections of the 1976 South Carolina Code of Laws, as amended referenced above include surcharges to be assessed on every ticket on an offense by offense basis; not on a receipt by receipt basis.

The current Court Clerk stated that the spreadsheet errors have been corrected.

I recommend the Clerk of Court assess fees in accordance with State law.

ADHERENCE TO UNIFORM TRAFFIC TICKET LAWS

One ticket tested for which the violator's ticket copy was made available contained a roadside bond amount of \$500. The receipt showed the citation was paid in full for \$103.

Section 56-7-10 of the 1976 South Carolina Code of Laws, as amended, states "(A) there will be a uniform traffic ticket used by all law enforcement officers in arrests for traffic offenses ... (C) No other ticket may be used for these offenses. The service of the uniform traffic ticket shall vest all ... courts with jurisdiction to hear and to dispose of the charge for which the ticket was issued and served. In addition, South Carolina Court Administration's Summary Court Bench Book, Memoranda 2007-06 sets out procedures for revising uniform traffic tickets using the Trial Court copy of the ticket, not the Violator's copy.

The current Court Clerk stated there is no documentation to explain what changes were made to the ticket.

I recommend the Court document any citati

It was during this effort that multiple STRRF were filed for previously filed months as well as payments from multiple months appearing on a single month's STRRF.

I recommend the Town implement procedures to ensure court accounting records are maintained and readily available for review. I also recommend that all court collections reported and remitted to the State Treasurer be reconciled to accounting records and deposits as well as reviewed for accuracy.

Supplementary Schedule

The Town provided an audited financial statement from June 30, 2014, the latest available audit, which included a schedule of fines and assessments for my procedures testing. There was no general ledger available with this schedule therefore I was unable to reconcile amounts to the general ledger. The schedule did not include total fines collected or total fines retained as required by law. The audit report had a disclaimer of opinion because of a lack of adequate accounting records from which to prepare financial statements. The victim assistance expenditures were unsubstantiated.

Section 14-1-208(E)(1) of the 1976 South Carolina Code of Laws, as amended, states, "The supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the municipal court; (b) all assessments collected by the clerk of court for the municipal court; (c) the amount of fines retained by the municipal treasurer; (d) the amount of assessments retained by the municipal treasurer; (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward."

I recommend the Town implement procedures to ensure amounts reported on the supplementary schedule are accurately reported in accordance with State law.

VICTIM ASSISTANCE FUNDS

During my tests of Municipal Court collections and remittances I noted the following:

- x The Town assesses a conviction surcharge on most misdemeanor traffic violations. Assessing misdemeanor traffic violations with the conviction surcharge inflates the cumulative balance. (See 'Conviction Surcharge' under 'Adherence to Fine Guidelines' above)
- x There was no attempt to cumulatively track, either by fund accounting or manually, the aggregate balance of Victim Assistance funds.
- x The June 30, 2014 Schedule of Fines and Assessments had a Victim Assistance carry forward balance of \$113,452 but no support was available to substantiate this amount. The bank account balance was \$113,195. The manual accounting done

states the balance should be \$121,962, including the inflated amounts of conviction surcharges on misdemeanor traffic violations, which would require an additional deposit of \$8,767.

Section 14-1-211(B) of the 1976 South Carolina Code of Laws, as amended, states, "The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any funds retained by the county or city treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision."

The current Assistant Town Administrator stated the procedures period balance had been manually tracked but they were not able to substantiate through available Town records any amounts prior to that.

I recommend the Town establish and implement policies and procedures to ensure Victim Assistance revenue is accounted for and deposited timely in accordance with State law. I also recommend the Town establish a separate general ledger account to ensure the transparency of its Victims' Assistance funds and determine cumulative balances due to Victim Assistance.

(OVER) UNDER REPORTED AMOUNTS

During my testing I determined the system used to process tickets, collections of fines and STRRF cannot be relied upon to produce accurate information that reconciles at any point in time; daily, weekly, monthly. The Assistant Town Administrator prepared a schedule comparing bank deposits identified as originating in the Town's court system for the 24 month procedures period ended June 30, 2014 with amounts identified as supporting the STRRF. These amounts have estimates based on interpretations of unsupported data so they are not represented as accurate, but reasonable estimates given the conditions mentioned above. They are as follows:

Total amount of fine revenues represented as supporting STRRF that were confirmed to be submitted to the State

Total amount of fine revenues represented as supporting STRRF that were confirmed to be submitted to the State	

Based on the above assumptions and the calculations using them, the table below shows the amount due the State Treasurer's Office based on the above assumptions for the twelve months ended June 30, 2012:

STRRF LINE	DESCRIPTION	
K.	Municipal Law Enforcement Surcharge - \$25 per case	1,445.55
KA.	Municipal LE Surcharge - \$5	289.11
L.	Municipal Court -107.5%	<u>1,554.25</u>
M.	TOTAL REVENUE REMITTED TO STATE TREASURER	<u>3,288.91</u>
COUNTY VICTIM FUND		
N.	Assessments - Municipal -107.5%	<u>(6,009.59)</u>
P.	EXCESS VICTIM MONEY RETAINED BY LOCAL GOVERNMENT	\$ <u>(6,009.59)</u>

The \$2,720.68 difference from the table above is owed by the victim assistance fund to the Town as the Town's share of the fine money over allocated to the victim fund. See Victim Assistance Fund finding above for further details.

I recommend the Town implement a process to ensure timely filing and payment of amounts due the State Treasurer.

SECTION B -OTHER WEAKNESSES

The conditions described in this section have been identified while performing agreed-

COURT CASH RECEIPT PROCEDURES

During my testing I was unable to trace any ticket payments from the court receipt into the Town's bank deposit. The Town Clerk can produce a cash summary report at any time. Posting payments for tickets to the court software system was not standard procedure. The Town does not individually list the check amounts and receipt or ticket numbers on the deposit slip. Collections were held in a safe for long periods of time before deposit.

Supreme Court Justice Toal issued a court order to county magistrates, dated September 13, 2007. Section II, item C. states, "At the end of each day, all receipts issued shall be totaled, and the total indicated on the Daily Cash Summary Report." Section III, item C states further "...deposit slips shall be prepared for each separate account These deposit slips shall include: List of checks deposited (name of Defendant and amount of check must be included), total cash deposited, the starting and ending receipt numbers ...". While this order is directed to county magistrate courts, it could also be applied to municipal courts to improve overall internal control over financial activity.

The Town Clerk and Treasurer responsible for the procedures period left Town employment. Current personnel are aware of the specific requirements.

I recommend that the Town Clerk develop a daily cash receipt report when transmitting payments receipted to the Town Treasurer and I further recommend the Town Treasurer deposit this transmittal intact, i.e. on its own separate deposit slip. Also, the Town Treasurer should attach the validated deposit slip from the bank to the daily cash receipt report copy.

MONTHLY RECONCILIATIONS

The court does not perform timely monthly reconciliations between the court's docket of adjudicated tickets, prenumbered paper receipts and deposits made during the month.

Section V, item B. of Justice Toal's March 13, 2007 court order to county magistrates states, "The remittance must include a full and accurate statement of all monies collected ... on account of fines during the past month together with the title of each case in which a fine, fee, or cost has been paid. Remittances must balance with the appropriate docket sheet(s)." While this order is directed to county magistrate courts, it could also be applied to municipal courts to improve overall internal control over financial activity.

Because the court does not perform timely reconciliations of its court docket to its bank deposits it could unknowingly cause fines, fees and assessments to be over or under allocated and remitted to the State Treasurer, Town and/or Victims' Assistance.

COURT SOFTWARE

The software system the Court uses is not compliant with State laws in how it assesses and allocates fines. This necessitates the use of a spreadsheet based allocation method.

Section 14-1-208(E)(4) of the 1976 South Carolina Code of Laws, as amended, states, "The clerk of court and municipal treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection in the format determined by the municipal governing body and make those records available for review."

The Town uses an obsolete and archaic court software system. The system is not well documented or understood by the users of the system.

The judge stated the Town has limited funds to purchase software and to provide

MUNICIPALITY'S RESPONSE

TOWN OF CALHOUN FALLS
410 North Washington Street
P.O. Box 246
Calhoun Falls, SC 29628

November 16, 2015

Richard H. Gilbert, Jr. CPA
Deputy State Auditor
Office of the State Auditor
1401 Main Street, Suite 1200
Columbia, SC 29201

Dear Mr. Gilbert:

We have reviewed and authorize the release of the State Auditor's report for the fiscal years 2013/2014, 2012/2013 and 2011/2012.

As reflected in the report's findings, numerous irregularities and incidents that are termed in the report as "violations of State law" prompted the Town of Calhoun Falls to undertake a voluntary internal investigation of the performance of the Municipal Court, primarily for the fiscal year ending June 30, 2014, prior to being notified by your Office that the Municipal Court would be subject to a random ticket audit for that fiscal year. It is important that the Town of Calhoun Falls use this opportunity to respond to the findings of the auditor's report, by recounting the detailed circumstances that led to the findings, and outlining the policies and procedures enacted by the Town to remedy these issues and prevent their recurrence in the future.

In late May, 2014, a letter to the former Mayor from the State Treasurer's Office (STO), dated August 29, 2013 was discovered, which letter stated that State funds to the Town would be withheld due to the Town's failure to submit an

partial forms/fines had been previously submitted. Following this initiative, repeated inquiries were made of all staff with respect to their knowledge of any other outstanding tickets and payments, and all staff members claimed to have no such knowledge of any other unprocessed tickets and fines collected.

Town staff and resources were dedicated over the summer of 2014 to resolving the issue of incomplete and inconsistent STRRFs for the Fiscal Year 2011/2012, which were causing the delay of the independent audit, the completion of which would trigger the release of a portion of the funds being withheld at that time by the STO. The FY 2011/2012 independent audit was completed, and a portion of the funds were released by the STO. The filing of monthly court fines remittance forms to the STO was brought current, and additional funds were released to the Town; however, the STO began a new round of withholdings because 1) the online annual financial report and 2) the independent audit for FY 2012/2013 had not been submitted to the STO in a timely fashion. Both the report and the independent audit for FY 2012/2013 were eventually completed, and ALL funds that were withheld by the STO were released to the Town by August 31, 2014. In total, more than \$230,000 had been withheld by the STO during the period August, 2013 to August, 2014.

The then Court Clerk retired in early September, 2014. However, on the morning of September 26, 2014, the husband of the former Court Clerk brought to Town Hall a tote bag containing packets of full or partial STRRF's, spreadsheets, tickets and receipts, as well as \$18,884.41 in cash, checks and money orders. These had apparently been taken out of Town Hall sometime prior to May, 2014. The Town Police and SLED were contacted, and the contents of the tote bag were meticulously recorded. Packets were for months as far back as November, 2012, and also included February through December, 2013, and January through July, 2014 ... a total of eighteen (18) past months. The failure to process these tickets, deposit the fines and forward funds to the STO in a timely manner caused the STO to once again begin withholding funds from the Town. The cash, checks and money orders found in the tote bag were deposited. In a letter to the STO, dated January 27, 2015, the STRRF's prepared from the documentation contained in the tote bag for the months in FY 2013/2014 were forwarded, along with a check in the amount of \$6,189.56. Subsequently, all the STRRF's and a check for the months that should have been reported and submitted for FY 2012/2013 were forwarded to the STO. With the best of staffs' collective knowledge, the Town of Colhoun Falls was current with the submission of forms and the State's share of fines collected.

It must be noted that, at no time between January 1, 2014 ... the date that the "new" Mayor and Council assumed office ... and May, 2014, were the Town's elected officials or administrators advised by any staff that the STO had been withholding funds since August, 2013. It was only when the letter referenced earlier was inadvertently discovered in a desk drawer, and questions were asked, did the severity of the situation come to light. Even with the knowledge that the Town was at least 90 days behind in submitting remittance forms and funds to the STO, no monthly court fines reports were submitted in a timely fashion for October, 2013; December, 2013 through March, 2014, and May, 2014 ... thereby putting the Town an additional 6 months in arrears. The Clerk/Treasurer resigned in September, 2014.

Subsequently, the Town undertook an internal analysis to assess the failures of past practices, and develop an effective set of policies and procedures intended to avoid repeating those mistakes, and eliminate their deleterious effects on the Town's finances. There were so

many lapses in procedures and practices regarding collection, deposit and distribution of court fines that, effectively, the process had to be re-established.

Previously, all
fines collected were deposited into the general fund which made transfers and distributions very
difficult. 3(e) TJ t wr

Your favorable consideration of this response will be appreciated, and we would invite the SC Auditor to conduct a follow-up audit for ~~20~~2014/2015 to confirm the effectiveness of the new policies and procedures put in place.

Thank you.