

**TOWN OF CHERAW MUNICIPAL COURT
CHERAW, SOUTH CAROLINA**

**STATE AUDITOR'S REPORT
JUNE 30, 2013**

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**SAO
Transmittal
Letter**

State of South Carolina



Office of the State Auditor

1401 MAIN STREET, SUITE 1200
COLUMBIA, S.C. 29201

RICHARD H. GILBERT, JR., CPA
DEPUTY STATE AUDITOR

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July 1, 2014

The Honorable Nikki R. Haley, Governor
State of South Carolina
Columbia, South Carolina

The Honorable James A. Graves, Chief Judge
Ms. Clementine A. Ellis, Clerk-Treasurer
Town of Cheraw
Cheraw, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Cheraw Municipal Court System as of and for the year ended June 30, 2013, was issued by Cline Brandt Kochenower & Co., P.A., Certified Public Accountants, under contract with the South Carolina Office of the State Auditor.

If you have any questions regarding this report, please let us know.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard H. Gilbert Jr.", written in a cursive style.

Richard H. Gilbert, Jr., CPA
Deputy State Auditor

RHGjr/cwc

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

April 17, 2014

The Honorable Nikki R. Haley, Governor
State of South Carolina
Columbia, South Carolina

The Honorable James A. Graves, Chief Judge
Town of Cheraw Municipal Court
Cheraw, South Carolina

Ms. Clementine A. Ellis, Clerk - Treasurer
Town of Cheraw
Cheraw, South Carolina

We have performed the procedures described below, which were agreed to by the Town of Cheraw and the Town of Cheraw Municipal Court, solely to assist you in evaluating the performance of the Town of Cheraw Municipal Court for the period July 1, 2012 to June 30, 2013, in the areas addressed. The Town of Cheraw and the Town of Cheraw Municipal Court are responsible for its financial records, internal controls and compliance with State laws and regulations. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified parties in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and the associated findings are as follows:

1. Clerk of Court

- We gained an understanding of the policies and procedures established by the Clerk of Court to ensure proper accounting for all fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- We obtained Cheraw Municipal Court dockets from the Clerk of Court. We judgmentally selected twenty-five cases from the court dockets and recalculated the fine, fee, assessment and surcharge calculation to ensure that the fine, fee, assessment or surcharge was properly allocated in accordance with applicable State law. We also determined whether the fine, fee, assessment and/or surcharge adhered to State law and to the South Carolina Court Administration fee memoranda.

The Honorable Nikki R. Haley, Governor
and
The Honorable James A. Graves, Chief Judge
Ms. Clementine A. Ellis, Clerk - Treasurer
Town of Cheraw
April 17, 2014

- We tested recorded court receipt transactions to determine that the receipts were remitted in a timely manner to the Town's finance department in accordance with State law.

Our findings as a result of these procedures are presented in Adherence to Fine Guidelines in the Accountant's Comments section of this report.

2. Clerk - Treasurer

- We gained an understanding of the policies and procedures established by the Town Clerk - Treasurer to ensure proper accounting for all fines, fees, assessments, surcharges, escheatments, or other monetary penalties.
- We obtained copies of all State Treasurer's Revenue Remittance Forms submitted by the Town for the period July 1, 2012 through June 30, 2013. We agreed the line item amounts reported on the State Treasurer's Revenue Remittance Forms to the monthly court remittance reports and to the State Treasurer's receipts. We also agreed the total revenue due to the State Treasurer to the general ledger.
- We determined if the State Treasurer's Revenue Remittance Forms were submitted in a timely manner to the State Treasurer in accordance with State law.
- We verified that the amounts reported by the Town on its supplemental schedule of fines and assessments for the fiscal year ended June 30, 2013 and obtained the reconciliation to the State Treasurer's Revenue Remittance Forms and to the Town's general ledger. We also determined if the supplemental schedule of fines and assessments contained all required elements in accordance with State law.

Our finding as a result of these procedures is presented in Opinion on Supplementary Schedule in the Accountant's Comments section of this report.

3. Victim Assistance

- We gained an understanding of the policies and procedures established by the Town to ensure proper accounting for victim assistance funds.
- We made inquiries and performed substantive procedures to determine if any funds retained by the Town for victim assistance were accounted for in a separate account.
- We tested judgmentally selected victim assistance expenditures to ensure that the Town expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.

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Town of Cheraw
April 17, 2014

3. **Victim Assistance**, continued

- We determined if the Town reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with State law.
- We inspected the Town's general ledger to determine if the Victim Assistance Fund balance was retained as of July 1 from the previous fiscal year in accordance with State law.

There were no findings as a result of these procedures.

We were not engaged to and did not conduct an audit, the objective of which would be the expression of an opinion on compliance with the collection and distribution of court generated revenue at any level of court for the twelve months ended June 30, 2013, and, furthermore, we were not engaged to express an opinion on the effectiveness of internal controls over compliance with the laws, rules and regulations described in paragraph one and the procedures of this report. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Governor, Chairman of the House Ways and Means Committee, Chairman of the Senate Finance Committee, Chairman of the House Judiciary Committee, Chairman of the Senate Judiciary Committee, members of the Town of Cheraw Town Council, Town of Cheraw Municipal Judge, Town of Cheraw Clerk of Court, Town of Cheraw Clerk - Treasurer, State Treasurer, State Office of Victim Assistance, and the Chief Justice and is not intended to be and should not be used by anyone other than these specified parties.



Cline Brandt Kochenower & Co. P.A.

**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 ensure compliance with State Laws, Rules or Regulations governing court collections and remittances. The procedures agreed to by the entity require that we 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.

ADHERENCE TO FINE GUIDELINES

During our test of Municipal Court collections and remittances, we noted instances in which it appears that the judge did not fine the defendants in accordance with State law or local ordinance. The following describes the exceptions noted.

- 1) Of the three Driving Under Suspension – fixed period cases we tested, all three individuals were fined less than \$300. Section 56-1-460(A)(1) of the 1976 South Carolina Code of Laws, as amended, states, "a person...be punished as follows: (a) for a first offense, fined three hundred dollars or imprisoned for up to thirty days, or both;
- 2) One case for Speeding less than 10 mph over the speed limit the individual was fined \$49.64. Section 56-5-1520(G) of the 1976 South Carolina Code of Laws, as amended, states, " A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars;
- 3) One case for Selling Beer to Minors the individual was fined \$197.59. Section 61-4-50(A) states "It is unlawful for a person to sell beer, ale, porter, wine, or other similar malt or fermented beverage to a person under twenty-one years of age. A person who makes a sale in violation of this section, upon conviction: (1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both;

There was a similar finding in the Report on Agreed Upon Procedures of the Town of Cheraw Municipal Court for the twelve month period ended June 30, 2008 and dated September 30, 2008.

The Town Clerk of Court stated the errors noted in 1) through 3) above were related to the judge's adjusting the fines at sentencing by rounding or other means.

We recommend the Municipal Court implement procedures to ensure that fines levied by the court adhere to applicable State law.

ASSESSMENTS AND SURCHARGES

The town has not assessed the 107.5% assessment and other surcharges on specific local ordinances as required by the various assessment and surcharge laws.

South Carolina Code of Laws sections 14-1-208 “requires any person who is convicted of, pleading guilty or nolo contendere to, or forfeiting bond for an offense tried in municipal court to pay an assessment...” Section 14-1-211 requires “In addition to all other assessments and surcharges, a twenty-five dollar surcharge is imposed on all convictions obtained in municipal court, including municipal ordinances.” Section 14-1-212 requires “In addition to all other assessments and surcharges, a twenty-five dollar surcharge is levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in municipal court for misdemeanor traffic offenses or non-traffic (criminal) convictions, including municipal ordinances. **No portion of the surcharge may be waived, reduced, or suspended.**” Section 90.5, Part 1B Temporary Provisos requires “In addition to all other assessments and surcharges during the current fiscal year, a five dollar surcharge to fund training at the SC Criminal Justice Academy is also levied on all fines and monetary penalties imposed in the municipal court for misdemeanor traffic offenses or for non-traffic violations.”

This was caused by a clerk inadvertently setting some specific local ordinance’s fines to ‘non assessed’ in the system. The clerk immediately corrected this for those specific municipal ordinances and the town calculated the amount of assessments owed to the State Treasurer as a result of this error.

The assessments and surcharges owed and the line on the STRRF impacted are listed in the following table:

Line L: Municipal 107.5%	\$4,549.90
Line N: Assessments – Municipal	572.56
Line K: Municipal LE Surcharge	2,425.00
Line KA: Municipal CJA \$5 Surcharge	480.00

We recommend the town implement a process to review system data entry to ensure surcharges are properly assessed and collected in accordance with State law.

OPINION ON SUPPLEMENTARY SCHEDULE

During our testing of the schedule of court fines, assessments and surcharges included in the Town's financial statements for the year ended June 30, 2012, we noted the auditors' opinion was not an "in-relation-to" opinion. In fact, no form of assurance was given on the supplementary schedule.

Town personnel could not provide an explanation.

Section 14-1-208(E)(2) and 14-1-211(D)(2) of the 1976 South Carolina Code of Laws, as amended, states, "The supplementary schedule must be included in the external auditor's report by an "in relation to" paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents.."

We recommend the Town inform their auditor of the requirement to provide an "in-relation-to" opinion on its supplementary schedule in accordance with State law.

SECTION B – STATUS OF PRIOR FINDINGS

During the current engagement, we reviewed the status of corrective action taken on each of the findings reported in the Accountant's Comments section of the Report on Agreed Upon Procedures of the Town of Cheraw Municipal Court for the twelve month period ended June 30, 2008 and dated September 30, 2008. We determined that the Town of Cheraw has taken adequate corrective action on the deficiencies titled Improper Classification of Violations, Lack of an Expenditure Allocation Plan, Lack of Proper Accounting, Timely Filing, and Supplemental Schedule of Fines and Assessments. We also determined that the deficiency outlined in the finding titled Adherence to Judicial Department Fine Guidelines; still exists; consequently we have reported similar findings in Adherence to Fine Guidelines in Section A of the report.

**MUNICIPALITY'S
RESPONSE**

MUNICIPALITY'S RESPONSE

The management of the Town of Cheraw has been provided a copy of the finding(s) identified in the Accountant's Comments Section of this report and has elected not to provide a written response to finding(s).