

**TOWN OF CLOVER MUNICIPAL COURT
CLOVER, SOUTH CAROLINA
STATE AUDITOR'S REPORT
JUNE 30, 2013**

CONTENTS

| | <u>PAGE</u> |
|--|-------------|
| I. INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES | 1 |
| II. ACCOUNTANT'S COMMENTS | |
| VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS | 4 |
| ADHERENCE TO FINE GUIDELINES | 5 |
| ASSESSMENT AND COLLECTION OF FEES AND SURCHARGES | 5 |
| 107.5% Assessment | 5 |
| Conviction Surcharge | 6 |
| Public Defender Application Fee | 6 |
| Recommendation | 7 |
| TIMELY SUBMISSION OF STATE TREASURER'S REVENUE REMITTANCE FORM | 7 |
| TOWN'S RESPONSE | 9 |

State of South Carolina



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INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

October 1, 2013

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

The Honorable Herman M. Howell, Municipal Judge
Town of Clover Municipal Court
Clover, South Carolina

Ms. Barbara Denny, Town Treasurer
Town of Clover
Clover, South Carolina

We have performed the procedures described below, which were agreed to by the Town of Clover and the Town of Clover Municipal Court, solely to assist you in evaluating the performance of the Town of Clover Municipal Court for the fiscal year ended June 30, 2013, in the areas addressed. The Town of Clover and the Town of Clover 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 Town of Clover and the Town of Clover Municipal Court. 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 certain judgmentally selected final court dockets from the Municipal Associate Judge/Clerk of Court. We randomly selected 25 cases from the final 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.

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

The Honorable Nikki R. Haley, Governor
and
The Honorable Herman M. Howell, Municipal Judge
Ms. Barbara Denny, Town Treasurer
Town of Clover
October 1, 2013

2. Town Treasurer

- We gained an understanding of the policies and procedures established by the Town to ensure proper accounting for court fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- We obtained copies of all State Treasurer's Revenue Remittance Forms submitted by the Town for the fiscal year ended 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, 2012, agreed 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 Timely Submission of State Treasurer's Revenue Remittance Form 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 that any funds retained by the Town for victim assistance were accounted for in a separate account.
- We tested all 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.
- 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.

We found no exceptions as a result of the procedures.

The Honorable Nikki R. Haley, Governor
and
The Honorable Herman M. Howell, Municipal Judge
Ms. Barbara Denny, Town Treasurer
Town of Clover
October 1, 2013

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 Clover Town Council, Town of Clover Municipal Judge, Town of Clover 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.



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

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

We selected twenty-five cases from the final court dockets to ensure that the fine, fee, assessment and/or surcharge levied by the Municipal Court adhered to State law. Based on the tests performed, we noted one instance where a defendant was sentenced to time served for driving under the influence, 0.10 but less than 0.16, first offense. The time served by the defendant did not meet the minimum sentence required by State law.

Section 56-5-2930(A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who violates the provisions of this section is guilty of the offense of driving under the influence and, upon conviction, entry of a plea of guilty or of nolo contendere, or forfeiture of bail must be punished as follows: (1) If the person's alcohol concentration is at least ten one-hundredths of one percent but less than sixteen one-hundredths of one percent, then the person must be punished by a fine of five hundred dollars or imprisonment for not less than seventy-two hours nor more than thirty days."

The municipal judge stated the charge should have been reduced to .08.

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

ASSESSMENT AND COLLECTION OF SURCHARGES AND FEES

107.5% Assessment

During our test of Municipal Court collections and remittances, we noted one instance where the Town did not properly calculate the 107.5% assessment.

The Associate Judge/Clerk of Court stated she did not know why the calculation was incorrect since she enters the charge code into the Town's court accounting software, CMS, and the fine and applicable surcharges and assessments are automatically calculated.

Section 14-1-208(A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who is convicted of, or pleads guilty...for an offense occurring after June 30, 2008, tried in municipal court must pay an amount equal to 107.5 percent of the fine imposed as an assessment."

Conviction Surcharge

During our test of Municipal Court collections and remittances, we noted seven instances where the Court did not assess and collect the \$25 conviction surcharge.

Section 14-1-211 (A)(1) of the 1976 South Carolina Code of Laws, as amended, states, "In addition to all other assessments and surcharges...a twenty-five dollar surcharge is imposed on all convictions obtained in magistrates and municipal courts in this State. No portion of the surcharge may be waived, reduced, or suspended." This section does not apply to misdemeanor traffic offenses or parking violations.

The municipal judge stated the above cases have been closed but in the future he plans to issue an order to the defendants that the assessments must be paid even if time has been or will be served.

Public Defender Application Fee

During our test of Municipal Court collections and remittances, we noted five instances where the Court did not assess and collect the \$40 public defender application fee from defendants that applied for a public defender.

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 from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the clerk of court or other appropriate official for a waiver or reduction in the

application fee. If the clerk or other appropriate official determines that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge upon sentencing and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation.” Section 17-3-45(B) of the 1976 South Carolina Code of Laws, as amended, further states that the application fee must be paid “by a time payment method if probation is not granted or appropriate.”

The Municipal Associate Judge/Clerk of Court stated that the fees in these cases were waived but the waiver was not documented on the notes because it is normal practice for the Town to not collect that fee.

Recommendation

We recommend the Municipal Court implement procedures to ensure assessments, surcharges and fees are properly assessed and collected in accordance with State law.

TIMELY SUBMISSION OF STATE TREASURER’S REVENUE REMITTANCE FORM

During our testing of the Town’s State Treasurer Revenue Remittance Forms (STRRF), we noted four out of twelve STRRF were not submitted to the State Treasurer by the fifteenth day of the month as required by State law. The forms were submitted from one to four days late.

The Town Treasurer stated it was her understanding that the forms and checks due to the State Treasurer need only be postmarked, not received, by the fifteenth of each month.

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the Town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

We recommend the Town implement procedures to ensure the STRRF are submitted by the fifteenth day of each month in compliance with State law.

TOWN'S RESPONSE

November 26, 2013

State of South Carolina
Office of the State Auditor
1401 Main Street, Suite 1200
Columbia, SC 29201

Town of Clover's Response to Findings:

The Municipal Judge, Town Clerk of Court, Town Administrator and I have reviewed the audit report for Fiscal Year ending June 30, 2013 and authorize the release of the report and findings.

The Town of Clover has strengthened its resolve in improving its documentation and reporting of Municipal Court Finances. Check lists have been implemented that will ensure that penalties levied will adhere to State law and that the fine, surcharge and assessment calculations are correct. We will further make sure that any and all instances where a waiver or reduction in fines or fees has been ordered will be properly documented. It is now understood that the due date for the remittance to the State of the STRRF reports and funds is based on the receipt date and not the postmark date and such reports and funds will be mailed earlier until direct deposit can be set up.

We find that the above changes will ensure the Town of Clover will be in full compliance with the State procedures regarding the Municipal Court sector.

Sincerely,



Barbara J. Denny
Treasurer

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5 copies of this document were published at an estimated printing cost of \$1.43 each, and a total printing cost of \$7.15. Section 1-11-125 of the South Carolina Code of Laws, as amended requires this information on printing costs be added to the document.