

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

STATE AUDITOR'S REPORT

JUNE 30, 2011

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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

(803) 253-4160
FAX (803) 343-0723

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

August 15, 2012

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

The Honorable Scott D. Whittle, Chief Municipal Judge
Town of Pelion
Pelion, South Carolina

Ms. Janice Poole, Town Clerk/Clerk of Court
Town of Pelion
Pelion, South Carolina

We have performed the procedures described below, which were agreed to by the management of the Town of Pelion and the Town of Pelion Municipal Court, solely to assist you in evaluating the performance of the Town of Pelion Municipal Court for the fiscal year ended June 30, 2011, in the areas addressed. The Town of Pelion and the Town of Pelion 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 court dockets for the fiscal year ended June 30, 2011 from the Clerk of Court. We randomly selected 25 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 Scott D. Whittle, Chief Municipal Judge
Ms. Janice Poole, Town Clerk/Clerk of Court
Town of Pelion
August 15, 2012

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

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, 2011. 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 December 31, 2010 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 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 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.

Our finding as a result of these procedures is presented in Accounting for Victim Assistance Funds in the Accountant's Comments section of this report.

The Honorable Nikki R. Haley, Governor
and
The Honorable Scott D. Whittle, Chief Municipal Judge
Ms. Janice Poole, Town Clerk/Clerk of Court
Town of Pelion
August 15, 2012

4. **Status of Prior Findings**

- We inquired about the status of findings reported in the Accountant's Comments section of the State Auditor's Report for the twelve month period ended April 30, 2006 and dated September 21, 2006, to determine if the Town had taken adequate corrective action.

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

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, 2011, 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. 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 Pelion Town Council, Town of Pelion Municipal Judge, Town of Pelion Clerk/Clerk of Court, 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

During our test of Municipal Court collections and remittances, we noted one instance where the individual was fined \$76.14 for speeding, 15 mph over but less than 25 mph over the speed limit.

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: (3) in excess of fifteen miles an hour but less than twenty-five miles an hour above the posted limit by a fine of not less than fifty dollars nor more than seventy-five dollars."

The Town Clerk/Clerk of Court stated the error in the fine assessment was due to oversight.

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

CONVICTION SURCHARGE

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

The Town Clerk/Clerk of Court stated the defendant was given credit for time served and no fine or surcharges were ordered.

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."

We recommend the Municipal Court implement procedures to ensure the conviction surcharge is properly assessed and collected in accordance with State law.

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 December 31, 2010, we noted the Town did not report any fines collected by the municipal court nor did it report any victim services surcharges. According to the court's detail monthly reports, which agreed to the Town's general ledger, the court collected \$25,443 in fines and \$180 in victim services surcharges during the year. In addition, we noted that the amount reported for victim assistance expenditures on the schedule did not agree with the amount recorded in the Town general ledger. The schedule reported victim assistance expenditures of \$4,836 and the general ledger reported \$5,237.

The Town Clerk/Clerk of Court stated she was unaware of the requirements regarding the supplementary schedule. She also stated the variance between the supplementary schedule and the general ledger was due to timing differences.

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."

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

ACCOUNTING FOR VICTIM ASSISTANCE FUNDS

During our testing of victim assistance expenditures, we noted the Town overcharged the victim assistance fund \$31 related to training the Assistant Clerk/Victim Services Provider. The Town allocated the Clerk's salary to the victim assistance fund for time spent in training, including travel time. The Town allocated \$221 to the victim assistance fund. We reperformed the allocation calculation and determined that the town should have allocated \$190 to the victim assistance fund.

The Town Clerk/Clerk of Court stated she was unaware the fund was overcharged.

Section 14-1-208(D) of the 1976 South Carolina Code of Laws, as amended, states, "The revenue retained by the municipality under subsection (B) must be used for the provision of services for the victims of crime including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts." Also, the South Carolina Court Administration Memorandum, Attachment L, dated June 24, 2010, and the South Carolina Victim Service Coordinating Council, Approved Guide for Expenditures of Monies Collected for Crime Victim Service in Municipalities and Counties, effective January 2010, set forth guidelines for expenditures of monies collected for crime victim services. In addition, Ethel Ford, Program Manager for the State Office of Victim Assistance, stated that the hours charged and paid to a part-time victim advocate must be equal to the amount of time spent attending the victim training, excluding time for lunch, and time spent traveling to and from the training.

We recommend the Town reimburse the victim assistance fund for the expenditure that was improperly charged.

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 Pelion Municipal Court for the twelve month period ended April 30, 2006 and dated September 21, 2006. We determined that the Town of Pelion has taken adequate corrective action on each of the deficiencies.

TOWN'S RESPONSE



Town of Pelion
SCOTT D. WHITTLE
Municipal Judge
PO Box 7
Pelion SC 29123
803-894-3535

October 4, 2012

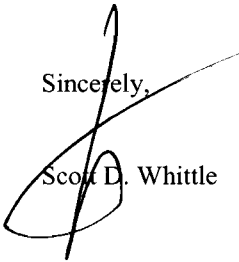
Via e-mail

To: Richard H. Gilbert Jr., CPA
Office of the State Auditor
1401 Main Street Suite 1200
Columbia, S.C. 29201

Mr. Gilbert,

I have reviewed the preliminary draft of the audit for the Town of Pelion. The information contained is very helpful in assuring that the courts collect the proper fees associated with the fines ordered, as a result of the audit I will confer with my Associate Judge to insure that the courts impose the proper fines to include the assessments required by law, we in turn will communicate more closely with Ms. Poole to insure strict compliance with the law. I also through this letter authorize the release of the report as requested in your letter. Please do not hesitate to contact me with any issues.

Sincerely,


Scott D. Whittle

cc. Town of Pelion via e-mail

Pelion Municipal Court
1010 Main Street
P.O. Box 7
Pelion, SC 29123
Phone/Fax: 803-894-3535

October 9, 2012

Mr. Richard H. Gilbert, Jr., Deputy State Auditor
State of South Carolina
Office of the State Auditor
1401 Main Street
Columbia, SC 29201

Dear Mr. Gilbert,

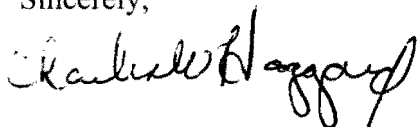
After reviewing the preliminary draft of the state auditor's report dated June 30, 2011, we would like to give the following responses to the accountant's comments.

SUPPLEMENTARY SCHEDULE: We have taken steps to make sure that the financial audit is prepared according to State law.

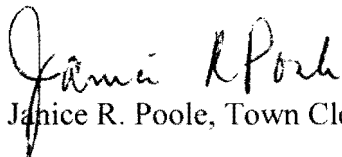
ACCOUNTING FOR VICTIM ASSISTANCE FUNDS: The Town will reimburse the victim assistance fund for the expenditure of \$31 that was improperly charged.

Please accept this letter as authorization to release your report.

Sincerely,



Charles W. Haggard, Mayor



Janice R. Poole, Town Clerk/Clerk of Court

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