

**CHEROKEE COUNTY CIRCUIT,
PROBATE AND FAMILY COURT SYSTEMS**

GAFFNEY, SOUTH CAROLINA

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

CONTENTS

	<u>PAGE</u>
STATE AUDITOR'S OFFICE TRANSMITTAL LETTER	
I. INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES	1-4
II. ACCOUNTANT'S COMMENTS	
SECTION A - VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS	5
ASSESSMENT AND COLLECTION OF FEES	6
Public Defender Application Fee	6
Installment Fee	7
Breathalyzer Fee	7
TIMELY REMITTANCE OF COURT GENERATED REVENUE	8
ACCURATE REPORTING-PROBATE COURT	8
SECTION B – STATUS OF PRIOR FINDINGS	9
COUNTY'S RESPONSE	10

**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

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

June 11, 2014

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

The Honorable Jackie Williams, Treasurer
Ms. Brandy W. McBee, Clerk of Court
Cherokee County
Gaffney, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Cherokee County Circuit, Probate and Family 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 Brandy W. McBee, Clerk of Court
Cherokee County Circuit and Family Court System
Gaffney, South Carolina

The Honorable Jackie W. Williams, Treasurer
Cherokee County
Gaffney, South Carolina

We have performed the procedures described below, which were agreed to by the County of Cherokee and the Cherokee County Circuit, Probate and Family Courts, solely to assist you in evaluating the performance of the Cherokee County Circuit, Probate and Family Court Systems for the fiscal year ended June 30, 2013, in the areas addressed. The County of Cherokee and the Cherokee County Circuit, Probate and Family Courts 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 the General Sessions' beginning and ending indictment numbers for all cases for the period under review from the Clerk of Court. We randomly selected twenty-five cases 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 that 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 Brandy W. McBee, Clerk of Court
The Honorable Jackie W. Williams, Treasurer
Cherokee County
April 17, 2014

- We obtained the population of case numbers for all new cases filed in the Court of Common Pleas during the period under review from the Clerk of Court. We randomly selected twenty-five case numbers to determine that filing and motion fees adhered to State law and the Clerk of Court Manual.
- We obtained the population of case numbers for all new cases filed in Family Court during the period under review from the Clerk of Court. We randomly selected twenty-five cases to determine that filing fees, motion fees, support collection fees, and fines adhered to State law and the Clerk of Court Manual.
- We tested recorded court receipt transactions to determine that the receipts were remitted in a timely manner to the County Treasurer in accordance with State law.
- We agreed amounts reported on all monthly court remittance reports to the Court's cash receipts ledger.

Our findings as a result of these procedures is presented in Assessment and Collection of Fees in the Accountant's Comments section of this report.

2. **Probate Judge**

- We gained an understanding of the policies and procedures established by the Probate Court to ensure proper accounting for all marriage license fees.
- We obtained the population of marriage license numbers for all new marriage licenses issued by the Probate Court during the period under review from the Probate Judge. We tested all licenses to determine that the marriage license fee adhered to State law.

Our finding as a result of these procedures is presented in Accurate Reporting-Probate Court in the Accountant's Comments section of this report.

The Honorable Nikki R. Haley, Governor
and
The Honorable Brandy W. McBee, Clerk of Court
The Honorable Jackie W. Williams, Treasurer
Cherokee County
April 17, 2014

3. **County Treasurer**

- We gained an understanding of the policies and procedures established by the County 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 County which reported court generated monies 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, general ledger, and to the State Treasurer's receipts.
- 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 County on its supplemental schedule of fines and assessments for the fiscal year ended June 30, 2013 agreed to the State Treasurer's Revenue Remittance Forms and to the County's general ledger.

Our finding as a result of these procedures is presented in Timely Remittance of Court Generated Revenue in the Accountant's Comments section of this report.

4. **Victim Assistance**

- We gained an understanding of the policies and procedures established by the County to ensure proper accounting for victim assistance funds.
- We made inquiries and performed substantive procedures to determine that funds retained by the County for victim assistance were accounted for in a separate account.
- We tested judgmentally selected expenditures to ensure that the County expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.
- We determined if the County reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with State law.
- We inspected the County'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.

The Honorable Nikki R. Haley, Governor
and
The Honorable Brandy W. McBee, Clerk of Court
The Honorable Jackie W. Williams, Treasurer
Cherokee County
April 17, 2014

5. 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 June 30, 2008, and dated October 9, 2008, to determine if the County had taken adequate corrective action.

Our finding as a result of these procedures is presented in Timely Remittance of Court Generated Revenue 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 the county 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 Cherokee County Council, Cherokee County Clerk of Court, Cherokee County Treasurer, Cherokee County Probate Judge, 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.

ASSESSMENT AND COLLECTION OF FEES

Public Defender Application Fee

During our test of General Sessions Court collections and remittances, we noted thirteen instances where the Court waived the Public Defender Application fee for defendants that applied and qualified for a public defender but did not document that waiver on the sentencing sheet or in the court record.

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 Clerk of Court stated that the waiver was not documented on the sentencing sheet because it must be manually inserted. The Clerk further stated that a waived fee form will be created to be inserted into the relevant files in the future as a reminder to assess the fee when the case is disposed.

ASSESSMENT AND COLLECTION OF FEES, Continued

Installment Fee

During our test of General Sessions Court collections and remittances, we noted one instance where the Court assessed and collected the three percent installment fee from individuals that paid the total amount due in one payment after the plea date.

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."

The Accounting Supervisor for the Clerk of Court's office stated they understood the three percent was assessed on anyone who did not pay on the court date or within the judge's extension of time to pay.

We recommend the Court implement procedures to ensure the installment fee is assessed and collected only from individuals who pay in installments.

Breathalyzer Fee

During our test of General Sessions Court collections and remittances, we noted one instance where the Court assessed the \$25 breathalyzer test fee for a DUI case in which the defendant refused the breathalyzer test and was subsequently convicted.

Section 56-5-2950(B) of the 1976 South Carolina Code of Laws, as amended, states, "No tests may be administered ... unless ... the person has been given a written copy of and verbally informed that: (1) he does not have to take the test."

The Clerk of Court stated the system requires manual intervention in order to remove that fee. This case was overlooked when that was done. There is no way for the Clerk to determine if the breathalyzer was refused by the documents submitted to the court. The clerk further stated the proper way to fix this is for the Case Management System to have a CDR code defining breath test refused. This way when the case is disposed CMS would not automatically assess the fee.

We recommend that the court review these cases specifically for the proper assessment of that fee to ensure it is properly assessed or removed based on the file documentation.

TIMELY REMITTANCE OF COURT GENERATED REVENUE

During our testing of the County's State Treasurer's Revenue Remittance Forms (STRRF), we noted three STRRF were not remitted to the State in a timely manner in accordance with State law. They were from one to seven days late. There was a similar finding in the report for the period ended June 30, 2008 dated October 9, 2008.

Section 14-1-206(B) of the 1976 South Carolina Code of Laws, as amended, states, in part that "The county treasurer must remit ... on a monthly basis by the fifteenth day of each month....".

The Treasurer stated the one remittance that was seven days late was related to a protocol error in the first month the automated draft was set up and a paper check had to be issued when the electronic transmittal failed. The other two STRRF were one day late each.

We recommend the Treasurer implement procedures to ensure timely filing of the STRRF remitted to the State Treasurer in accordance with State law.

ACCURATE REPORTING-PROBATE COURT

During our testing of the County's STRRF, we noted the Probate Court over reported the actual number of marriage licenses applied for by seven and therefore over remitted seven Domestic Violence fees to the State Treasurer in accordance with State law.

Section 20-1-375 of the 1976 South Carolina Code of Laws, as amended, states "... there is imposed an additional twenty dollar fee for each marriage license applied for. This additional fee must be remitted to the State Treasurer...."

The Probate court stated they manually count license fees to report each month and do not have a process to reconcile fees paid to fees collected.

The Probate court has over paid the state \$140.

We recommend the Probate court implement procedures to reconcile marriage licenses applied for with the fees collected.

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 Cherokee County General Sessions Court for the year ended June 30, 2008 and dated October 9, 2008. We determined that Cherokee County has taken adequate corrective action on the deficiencies titled Timely Reporting by the Clerk of Court, Installment Payments Allocation, and Supplemental Schedule of Fines and Assessments. We also determined that the deficiency titled Timely, Accurate Reporting to the State Treasurer still exists; consequently we have reported a similar finding in Section A of the report.

**COUNTY'S
RESPONSE**

COUNTY'S RESPONSE

The management of Cherokee County 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).