

CITY OF LIBERTY MUNICIPAL COURT
LIBERTY, SOUTH CAROLINA
STATE AUDITOR'S REPORT
JUNE 30, 2011

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State of South Carolina



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INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

June 20, 2012

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

The Honorable James E. English, Chief Municipal Judge
City of Liberty
Liberty, South Carolina

Ms. Josie Amspacher, City Treasurer
City of Liberty
Liberty, South Carolina

We have performed the procedures described below, which were agreed to by the management of the City of Liberty and the City of Liberty Municipal Court, solely to assist you in evaluating the performance of the City of Liberty Municipal Court for the fiscal year ended June 30, 2011, in the areas addressed. The City of Liberty and the City of Liberty 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 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 James E. English, Chief Municipal Judge
Ms. Josie Amspacher, City Treasurer
City of Liberty
June 20, 2012

- We tested recorded court receipt transactions to determine that the receipts were remitted in a timely manner to the City Treasurer in accordance with State law.

Our findings as a result of these procedures are presented in Assessment and Collection of Surcharges, Installment Fee, and Seatbelt Violations in the Accountant's Comments section of this report.

2. **City Treasurer**

- We gained an understanding of the policies and procedures established by the City 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 City 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 City on its supplemental schedule of fines and assessments for the fiscal year ended June 30, 2010 agreed to the State Treasurer's Revenue Remittance Forms and to the City's general ledger. We also determined if the supplemental schedule of fines and assessments contained all required elements in accordance with State law.

We found no exceptions as a result of the procedures.

3. **Victim Assistance**

- We gained an understanding of the policies and procedures established by the City to ensure proper accounting for victim assistance funds.
- We made inquiries and performed substantive procedures to determine if any funds retained by the City for victim assistance were accounted for in a separate account.
- We tested judgmentally selected expenditures to ensure that the City expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.
- We determined if the City reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with State law.
- We inspected the City'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 James E. English, Chief Municipal Judge
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City of Liberty
June 20, 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 March 31, 2007 and dated April 25, 2007, to determine if the City had taken adequate corrective action.

Our findings as a result of these procedures are presented in Assessment and Collection of Surcharges 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 City of Liberty City Council, City of Liberty Municipal Judge, City of Liberty Clerk of Court, City of Liberty 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.

ASSESSMENT AND COLLECTION OF SURCHARGES

Law Enforcement Funding Surcharge

The Court did not assess and collect the \$25 law enforcement funding surcharge on seven of the twenty-five remittances tested.

The Clerk of Court stated she was unaware this surcharge should be levied on municipal violations.

Section 14-1-212 (A) 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 fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates or municipal court for misdemeanor traffic offenses or for nontraffic violations. "

Criminal Justice Academy Surcharge

The Court did not assess and collect the \$5 criminal justice academy surcharge on one out of twenty-five remittances tested.

The Clerk of Court could not explain why this surcharge was not levied on this particular case.

Proviso 90.5 (A) of the 2010-2011 Appropriations Act, states, "In addition to all other assessments and surcharges, during the current fiscal year, a five dollar surcharge to fund training at the South Carolina Criminal Justice Academy is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates' or municipal court for misdemeanor traffic offenses or for nontraffic violations."

Recommendation

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

INSTALLMENT FEE

The Court assessed and collected the three percent installment fee on one of twenty-five remittances tested.

The Clerk of Court stated the former Municipal Judge gave the individual time to pay the fine and charged a “time payment” fee because the individual did not pay the fine until after the plea date. The Clerk of Court also stated that currently the Court requires all fines to be paid in full in one payment and a collection fee is not added to the total amount due.

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...”

We recommend the Court implement procedures to ensure the installment fee is charged and collected in accordance with State law.

SEATBELT VIOLATIONS

Section II. A. 1. of the South Carolina Court Administration Fee Memorandum dated June 24, 2010 states, "Generally, the revenue generated from criminal fines, penalties, and forfeitures in municipal court is retained by the municipality."

During our testing of Municipal Court collections and remittances, we noted the City reported and remitted part of the fine revenue from seatbelt violations on Line K – Law Enforcement Surcharge and Line KA – Municipal Criminal Justice Academy \$5 Surcharge on the State Treasurer Revenue Remittance Form (STRRF). The City also retained part of the fine revenue from seatbelt violations as the victim services assessment reported on Line N – Assessments – Municipal. Using the Court's records and the STRRF, we determined for the 36 months ended June 30, 2011, the City incorrectly remitted \$8,793.61 of fine revenue from seatbelt violations (\$5,708.61 via Line L and \$3,085 via Line KA) to the State and improperly retained \$719.77 for victim services.

The Clerk of Court stated this was due to an error in the City's court accounting system.

We recommend the City implement procedures to ensure fines from seatbelt violations are retained by the municipality in accordance with Court Administration policy. We also recommend the City deduct the \$5,708.61 from Line L – Municipal 107.5% and the \$3,085 from Line – KA – Municipal Criminal Justice Academy \$5 Surcharge, respectively, on future STRRF and document as such for auditing purposes. In addition, we recommend the City transfer \$719.77 from the victim assistance fund to the General Fund.

ACCOUNTING FOR VICTIM ASSISTANCE FUNDS

During our testing of victim assistance expenditures we noted the City charged a \$75 registration fee to the victim services fund for the Clerk of Court/Victim's Advocate to attend the 2010 Municipal Association of SC Clerk of Court and Court Finance 101 Session. Based on our review and inquiry of City personnel, we determined this training was not related to victim services and therefore the expenditure was unallowable. We also noted the City overcharged the victim assistance fund by \$55.64 by not properly crediting discounts for cell phone charges to the account. According to City personnel, these unallowable charges were due to oversight.

We further noted during our testing of victim assistance expenditures that the City did not maintain adequate documentation to support certain victim assistance expenditures. The City charged \$136 (\$34/day x 4 days) for meal per diem to the victim services fund for the Clerk of Court/Victim's Advocate to attend the SCLEVA conference in November 2010. The City could not provide support to document the daily per diem rate paid to the employee. In addition, we noted that the victim service fund included an expenditure (\$99.35) related to use of the city car. According to City personnel, the City's part-time Victim's Advocate is on call 24 hours a day and uses a city vehicle to commute from home to work and to wherever she is needed for victim services cases. The City did not maintain a daily mileage log for the vehicle or prepare any time and activity forms to document the times the Clerk of Court/Victim's Advocate was called out for victim services cases to justify having an on-call Victim's Advocate and to justify daily expenses charged to the victim services fund. The Clerk of Court/Victim Advocate stated she was unaware of the requirement to keep a daily mileage log and time and activity forms.

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, South Carolina Court Administration Memorandum, Attachment L, effective June 2010, and the South Carolina Victim Service Coordination Council, Suggested 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 (SOVA), stated that time and activity forms must be kept if an employee is driving a car daily as a part time advocate and part time clerk and daily travel expenses are being charged to the victim assistance fund. Also, statistical data of victims served should be maintained to justify the need for having an on-call victim advocate and reimbursing them for daily expenditures. Further, the Frequently Asked Questions portion of the SOVA’s website outlines the procedures that should be followed when preparing time and activity reports.

We recommend the City reimburse the victim assistance fund for the expenditures that were improperly charged and/or not adequately supported by source documentation. We also recommend the City establish and implement policies and procedures to ensure victim assistance revenue is used only for expenditures in accordance with State law, including the use of time and activity reports to document its Clerk of Court/Victim’s Advocate time and expenses spent on victim services cases.

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 City of Liberty Municipal Court for the twelve month period ended March 31, 2007 and dated April 25, 2007. We determined that the City of Liberty has taken adequate corrective action on the deficiency titled Schedule of Fines, Assessments and Surcharges. We also determined that the deficiency outlined in the finding titled Victim Assistance Expenditures still exists; consequently we have reported a similar finding in Accounting for Victim Assistance Funds in Section A of the report. For the deficiency outlined in the finding titled Improperly Allocating Child Restraint Violation Collections, we determined the Court has taken adequate corrective action. However, we noted additional deficiencies during our testwork, which will be reported in Assessment and Collection of Surcharges in Section A of the report.

CITY'S RESPONSE

CITY OF LIBERTY

MAYOR
R. MICHAEL SHERIFF

CITY
CLERK/BUSINESS
LICENSE OFFICIAL
V. Sue Woods

CITY COUNCIL
Rick Clark
Walt McJunkin
Dwight Yates
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BUILDING OFFICIAL
Richard Davidson

August 24, 2012

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

RE: Letter dated August 14, 2012

Dear Mr. Gilbert:

This is in response to the above reference letter and to let you know that we have complied with your recommendation to transfer the funds in question into the proper accounts. We have also implemented procedures that will prevent this problem from reoccurring. We authorize you to release the report.

If we can be of further assistance, and if you have any recommendations, please feel free to contact us.

Sincerely,

James E. English
Chief Municipal Judge


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