

**CITY OF NEW ELLENTON MUNICIPAL COURT  
NEW ELLENTON, SOUTH CAROLINA**

**STATE AUDITOR'S REPORT**

**JUNE 30, 2016**



## CONTENTS

	<u>PAGE</u>
I. OFFICE OF THE STATE AUDITOR TRANSMITTAL LETTER	1
II. INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES	2-4
III. ACCOUNTANT'S COMMENTS	5
<b>SECTION A – VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS</b>	<b>6</b>
TIMELY, ACCURATE REPORTING BY THE CLERK OF COURT	7
Improper Classification of Offenses: Traffic versus Criminal	7
Timely Reporting by the Clerk of Court	7
Installment Fee	7
Driving Under Suspension Fine Pullout	8
TIMELY, ACCURATE RECORDING AND REPORTING BY THE CITY TREASURER	8
Timely Submission of State Treasurer's Revenue Remittance Form	8
Supplementary Schedule	9
VICTIM ASSISTANCE FUNDS	9
UNDER REPORTED AMOUNTS	10
<b>SECTION B – OTHER WEAKNESSES</b>	<b>11</b>
LOCAL ORDINANCE PENALTY SECTION	12
COURT BANK ACCOUNT	12
<b>MUNICIPALITY'S RESPONSE</b>	<b>13</b>



**South Carolina  
Office of the State Auditor**

**George L. Kennedy, III, CPA  
State Auditor**

April 3, 2017

The Honorable Henry McMaster, Governor  
State of South Carolina  
Columbia, South Carolina

The Honorable Patrick D. Sullivan, Chief Judge  
Ms. Zorayda El, City Treasurer  
City of New Ellenton  
New Ellenton, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the City of New Ellenton Municipal Court System as of and for the year ended June 30, 2016, was issued by Steven L. Blake, CPA, 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 blue ink that reads "George L. Kennedy, III".

George L. Kennedy, III, CPA  
State Auditor

GLKIII/trb

# STEVEN L. BLAKE, CPA

## INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

November 8, 2016

The Honorable Patrick D. Sullivan, Chief Judge  
Ms. Zorayda El, City Treasurer  
City of New Ellenton  
New Ellenton, South Carolina

I have performed the procedures described below, which were agreed to by the City of New Ellenton Municipal Court, solely to assist you in evaluating the performance of the City of New Ellenton Municipal Court for the period July 1, 2015 through June 30, 2016, in the areas addressed. The City of New Ellenton Municipal Court is 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 Office of the State Auditor and the City of New Ellenton Municipal Court. Consequently, I 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

- I gained an understanding of the policies and procedures established by the Clerk of Court to ensure timely reporting by the Clerk of Court's Office.
- I obtained the court dockets or equivalent from the Clerk of Court. I 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 adjudicated in accordance with applicable State law and the South Carolina Court Administration Fee Memoranda.
- I tested twenty-five judgmentally selected recorded court receipt transactions to determine that the fine, fee, assessment and/or surcharge amount adheres to State law and the South Carolina Court Administration Fee Memoranda.
- I tested twenty-five judgmentally selected recorded court receipt transactions to determine that the receipts were allocated and apportioned in accordance with applicable State law.

The Honorable Patrick D. Sullivan, Chief Judge  
Ms. Zorayda El, City Clerk/Treasurer  
City of New Ellenton  
November 8, 2016

My findings as a result of these procedures are presented in Timely, Accurate Reporting by the Clerk of Court in the Accountant's Comments section of this report.

## 2. Municipal Treasurer

- I gained an understanding of the policies and procedures established by the municipal treasurer to ensure timely reporting by the municipality.
- I obtained copies of all court remittance forms or equivalents and tested each monthly remittance form to ensure that the forms were completed in accordance with instructions and submitted timely in accordance with State law.
- I determined that amounts reported on the monthly court remittance forms or equivalents agreed to the municipality's support.
- I scanned the municipality's support to determine if the municipality had misclassified fine, fee, assessment, and surcharge receipts.
- I obtained copies of all State Treasurer's Revenue Remittance forms for the period July 1, 2015 through June 30, 2016. I vouched the amounts reported on the State Treasurer's Revenue Remittance forms to the court remittance forms or equivalents.
- I determined that the amounts reported by the municipality on its supplemental schedule of fines and assessments agreed to the municipality's support.
- I determined that the municipality reported court financial activity on the supplemental schedule of fines and assessments in accordance with applicable State law.

My findings as a result of these procedures are presented in Timely, Accurate Recording and Reporting by the City Treasurer in the Accountant's Comments section of this report.

## 3. Victim Assistance

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

The Honorable Patrick D. Sullivan, Chief Judge  
Ms. Zorayda El, City Clerk/Treasurer  
City of New Ellenton  
November 8, 2016

- I verified that the amounts reported by the municipality on its supplemental schedule of fines and assessments applicable to the Victim Assistance fund agreed to the municipality's general ledger or subsidiary ledgers.
- I inspected the municipality's victim assistance fund to determine if the Victim Assistance fund balance was retained as of July 1 from the previous fiscal year in accordance with State law.

My findings as a result of these procedures are presented in Victim Assistance Funds in the Accountant's Comments section of this report.

#### 4. Calculation of Over/(Under) Reported Amounts

- I determined from my testing the City had not properly assessed one Driving Under Suspension Fine Pullout.

The results of my procedures disclosed that the municipality under reported amounts due to the State. My finding as a result of these procedures is presented in Under Reported Amounts in the Accountant's Comments section of this report.

I was 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, 2016 and, furthermore, I was 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, I do not express such an opinion. Had I performed additional procedures, other matters might have come to my attention that would have been reported to you.

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

*Steven L. Blake, CPA*

**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 I 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.

## **TIMELY, ACCURATE REPORTING BY THE CLERK OF COURT**

### **Improper Classifications of Offenses: Traffic versus Criminal**

The City's court accounting software misclassified a "Careless Operation of a Vehicle" offense as a criminal offense when cases were setup in the system. As a result, the conviction surcharge was incorrectly assessed and other surcharges were incorrectly allocated.

South Carolina Code of Laws Section 14-1-211(A)(1) states, "... a twenty-five dollar surcharge is imposed on all convictions obtained in ... municipal court ... . The surcharge must not be imposed on convictions for misdemeanor traffic offenses."

The City Clerk of Court had no comment.

I recommend the City implement procedures to monitor offense data entry so as to ensure all surcharges and fees are properly entered into its court accounting software.

### **Timely Reporting by the Clerk of Court**

The City does not have a system to document timely submission of the Clerk of Court's reports to the City treasurer. Based on the dates the Clerk of Court reports were printed, I determined the Clerk of Court did not prepare and submit four of the twelve State Treasurer's Revenue Remittance Forms (STRRF) timely.

Section 14-1-208(A) of the 1976 South Carolina Code of Laws, as amended, states "...This assessment must be paid to the municipal clerk of court and deposited with the city treasurer for remittance to the State Treasurer." Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the City 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.

The Clerk works part time for the City and therefore is not always available to prepare all STRRF in a timely manner.

I recommend the City implement procedures to ensure STRRF are prepared timely in accordance with State law.

### **Installment Fee**

During my test of municipal court collections and remittances, I noted five instances where the Court assessed and collected the three percent installment fee from individuals who paid in one late payment.

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...”.

The Clerk of Court stated it is City policy to collect the three percent on late payments. She did not realize this was not in compliance with State law.

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

### **Driving Under Suspension Fine Pullout**

I noted one instance where the Court did not assess the Driving Under Suspension with the mandatory \$100 Fine Pullout. See the Under Reported Amounts finding for further information.

Section 56-1-460 (C) of the 1976 South Carolina Code of Laws, as amended, states, “One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol.”

The Clerk of Court stated the offense had been properly set up at the time the case was entered into its system in 2010. However, by the time the violator paid the fine in 2016 the original software offense code had gone inactive which caused the pullout assessment error. The software vendor has been notified and corrected this in the software system.

I recommend the City implement procedures to monitor offense data entry so as to ensure all surcharges and fees are properly entered.

## **TIMELY, ACCURATE RECORDING AND REPORTING BY THE CITY TREASURER**

### **Timely Submission of the State Treasurer’s Revenue Remittance Form**

I obtained the copies of the State Treasurer Revenue Remittance Forms (STRRF) prepared during the procedures period. I noted eleven of the twelve STRRF were not submitted timely to the State Treasurer as required by State law. The City treasurer submitted them 2 – 29 days late.

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the City to remit the balance of the assessment revenue to the State Treasurer monthly by the

fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The City treasurer stated cash flow demands did not allow for timely submission.

I recommend the City implement procedures to ensure the STRRF are submitted timely in accordance with State law.

### **Supplementary Schedule**

The City's latest audited financial statements, fiscal year ended June 30, 2015, included a schedule of fines and assessments, which I tested to ensure compliance with State law. The City could not provide documentation demonstrating the schedule reconciled to the City's accounting records. However, I was able to verify that the schedule included STRRF amounts from June 2014 to June 2015.

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."

The City treasurer stated the auditor will be informed of the need for the schedule to be in compliance with State law and a reconciliation of amounts to the general ledger be provided at audit completion.

I recommend the City obtain reconciliations of the schedule amounts with their general ledger to determine if the schedule is prepared in accordance with State law.

### **VICTIM ASSISTANCE FUNDS**

During my tests of Municipal Court collections and remittances I noted the following:

- The City has established a separate bank account for Victim Assistance funds as required by State law but transfers of Victim Assistance funds have not been made timely. Only two deposits were made within the month following collection. As of June 30, 2016, transfers of Victim Assistance funds for February through June 2016 had not been made. These funds were deposited to the Victim Assistance bank account in October 2016. The April 2015 transfer was short \$300.

- I determined during my testing of allowable expenses that the City had not been reimbursed for payroll tax expenses for the Victim Advocate. The allowable, unreimbursed expense was \$495.00
- The City treasurer reimbursed \$611.61 of Victim Advocate travel without posting this expense to the Victim Assistance general ledger. Had this amount been posted as Victim Assistance expense, the budget for training would have been exceeded in the Victim Assistance travel budget. Also, when this expense was tested, no documentation was immediately on hand. Copies of invoices were obtained from the Victim Advocate however.

Section 14-1-211(B) of the 1976 South Carolina Code of Laws, as amended, states, “The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any funds retained by the county or city treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision.”

The City treasurer stated that a lack of training regarding proper Victim Assistance recordkeeping contributed to the issue.

I recommend the City establish and implement policies and procedures to ensure Victim Assistance revenue is accounted for and deposited timely in accordance with State law. I also recommend the City establish a separate general ledger account to ensure the transparency of its Victims’ Assistance funds and reimburse themselves for all allowable expenses in accordance with State Office of Victim Assistance [**SOVA**] policy.

**UNDER REPORTED AMOUNTS**

As reported in the finding Driving Under Suspension [**DUS**] Fine Pullout, the City did not properly allocate the DUS Pullout. Based on the tests performed I determined the City underreported the following cumulative amounts:

<b>STRRF LINE</b>	<b>DESCRIPTION</b>	
F.	Municipal DUS DPS Pullout - \$100	<u>100.00</u>
M.	TOTAL REVENUE DUE TO STATE TREASURER	<u><u>100.00</u></u>

I recommend the City determine how to pay the amount due by contacting the State Treasurer.

## **SECTION B – OTHER WEAKNESSES**

The conditions described in this section have been identified while performing agreed-upon procedures but are not considered violations of State Laws, Rules or Regulations.

## **LOCAL ORDINANCE PENALTY SECTION**

I was unable to determine from the documentation provided if there was any penalty for violating the local Careless Operation of a Vehicle ordinance. Therefore, I could not determine if the penalty charged for the offense violations I tested were in compliance with the local ordinance or not.

I recommend the City determine and list penalty amounts in their local ordinances when they are passed.

## **COURT BANK ACCOUNT**

The City's court bank account has a book balance of \$12,753.15 at June 30, 2016. The City treasurer stated the account balance represents the accumulated net of the City's fine revenues over court expenses. The City treasurer does not transfer the City's fine revenue to the general fund account in a separate transaction. By not clearing this account of monies owed to the City and others timely, this account is not an imprest account. Therefore, court and City monies are comingled and the cost of operating the municipal court is lost. Also, fund shortages, routinely caused by paying court operating costs, prohibit funds being available to transfer Victim Assistance money timely. See Victim Assistance Fund finding for further information.

Supreme Court Justice Toal issued a court order to county magistrates, dated March 13, 2007. Section VI, item F. states, "Each month the magistrate court shall reconcile the bank statement to the dockets by adding the total of the disposed traffic docket, the total of the disposed criminal docket, the total pending civil docket, the total of the outstanding bond list, and other monies on deposit. The total of these items should equal the total of the bank account or bank accounts." While this order is directed to county magistrate courts, it could also be applied to municipal courts to improve overall internal control over financial activity.

The City treasurer does not receive the court accounting system month end report containing individual defendant balances and the City's fine revenue that comprise the balance in its court bank account. Without knowledge of the monthly accounting, the account cannot be properly accounted for in accordance with Justice Toal's order.

I recommend that the City transfer its share of court revenues to the general fund, budget municipal court costs in the general fund and treat the court account as an imprest fund. Further, the City should reconcile the bank statement in accordance with the above procedure so that an accounting of all funds and their source will be maintained.

## MUNICIPALITY'S RESPONSE

The management of the City of New Ellenton has been provided a copy of the findings identified in the Accountant's Comments Section of this report and has elected not to provide a written response to the findings.