

**GREENWOOD COUNTY CIRCUIT
AND FAMILY COURT SYSTEM
GREENWOOD, SOUTH CAROLINA**

STATE AUDITOR'S REPORT

JUNE 30, 2009

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State of South Carolina



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INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

January 19, 2010

The Honorable Mark Sanford, Governor
State of South Carolina
Columbia, South Carolina

The Honorable Ingram B. Moon, Clerk of Court
Greenwood County Circuit and Family Court System
Greenwood, South Carolina

We have performed the procedures described below, which were agreed to by the County of Greenwood and the Greenwood County Circuit Court and Family Court, solely to assist you in evaluating the performance of the Greenwood County Circuit and Family Court System for the fiscal year ended June 30, 2009, in the areas addressed. The County of Greenwood and the Greenwood County Circuit Court and Family 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 fees, fines, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- We obtained certain judgmentally selected General Sessions Court monthly remittance reports from the Clerk of Court. We randomly selected twenty-five case transactions from the monthly remittance reports and recalculated the fee, fine, 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.

- We obtained listings of all cases and motions filed in the Court of Common Pleas for certain judgmentally selected months from the Clerk of Court. We randomly selected ten cases and ten motions from the listings to determine that filing and motion fees adhered to State law and the Clerk of Court Manual.
- We obtained listings of all cases and motions filed in Family Court for certain judgmentally selected months from the Clerk of Court. We randomly selected ten cases and ten motions from the listings to determine that filing and motion fees adhered to State law and the Clerk of Court Manual.
- We obtained a listing of family court fines payments for certain judgmentally selected months from the Clerk of Court. We randomly selected ten payments to determine if family court costs adhered to State law.
- We recalculated the amount of child support and alimony fees due to the state during the year under review and compared to reported amounts to test for reasonableness and to ensure fees adhered to State law. We judgmentally selected one month to perform further detailed testing of the fees.
- We recalculated marriage license fees collected and due to the state during the year under review and compared to reported amounts to test for reasonableness and to ensure fees adhered to State law.
- We recalculated the amount of bond estreatments due to the state during the year under review and compared to reported amounts to test for reasonableness and to ensure estreatments adhered to State law.
- We obtained a listing of all public defender application fees paid during certain judgmentally selected months from the Public Defender's Office. We tested all fees paid during those months to determine if the fee was properly collected in accordance with State law.
- 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.

Our findings as a result of these procedures are presented in Adherence to Fine Guidelines, Assessment and Collection of Surcharges, Installment Fee, and Remittance of Fine to the Department of Natural Resources in the Accountant's Comments section of this report.

2. **County Treasurer**

- We gained an understanding of the policies and procedures established by the County to ensure proper accounting for court fees, fines, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- We agreed amounts reported on the judgmentally selected monthly court remittance reports to the County's general ledger.
- We obtained copies of all State Treasurer's Revenue Remittance Forms submitted by the County during the fiscal year ended June 30, 2009. We agreed the amounts reported on the State Treasurer's Revenue Remittance Forms to the monthly court remittance reports 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.

The Honorable Mark Sanford, Governor
and
The Honorable Ingram B. Moon, Clerk of Court
Greenwood County
January 19, 2010

- We verified that the amounts reported by the County on its supplemental schedule of fines and assessments for the fiscal year ended June 30, 2008 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 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 County to ensure proper accounting for victim assistance funds.
- We made inquiries and performed substantive procedures to determine that any 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 that 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.

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.

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, 2009, 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, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, members of the Greenwood County Council, Greenwood County Clerk of Court, Greenwood County 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

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 General Sessions Court collections and remittances, we noted the following instances in which the judge assessed fines below the minimum set by state law:

1. Of the two individuals who pled guilty to DUI, second offense, one was given a suspended fine of \$1,000 and the other was fined \$413.51. Section 56-5-2940(2) of the 1976 South Carolina Code of Laws, as amended, states, "A person who violates a provision of Section 56-5-2930 or 56-5-2933, upon conviction, entry of a plea of guilty or of nolo contendere...must be punished by a fine of not less than two thousand one hundred dollars nor more than five thousand one hundred dollars and imprisonment for not less than five days nor more than one year for the second offense. However, the fine imposed by this item shall not be suspended in an amount less than one thousand one hundred dollars."
2. An individual who pled guilty to leaving the scene, hit and run, with great bodily injury, was given a suspended fine of \$500. Section 56-5-1210 (A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who fails to stop or to comply with the requirements of this section is guilty of: (2) a felony and, upon conviction, must be...fined not less than five thousand dollars nor more than ten thousand dollars when great bodily injury results."
3. An individual who pled guilty to driving under suspension for DUI, second offense, was fined \$200. Section 56-1-460 (A)(1) of the 1976 South Carolina Code of Laws, as amended, states, "...A person who drives a motor vehicle on any public highway of this State when his license to drive is canceled, suspended or revoked must, upon conviction, be punished as follows: (b) for a second offense, fined six hundred dollars or imprisoned for sixty consecutive days, or both."
4. An individual who pled guilty to felony DUI with great bodily injury was not fined but was sentenced to ninety days imprisonment and five years probation. Section 56-5-2945(A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who, while under the influence of alcohol, drugs, or the combination of alcohol and drugs, drives a motor vehicle and when driving a motor vehicle does any act forbidden by law or neglects any duty imposed by law in the driving of the motor vehicle, which act or neglect proximately causes great bodily injury or death to a person other than himself, is guilty of the offense of felony driving under the influence and, upon conviction, must be punished: (1) by a mandatory fine of not less than five thousand one hundred dollars nor more than ten thousand one hundred dollars and mandatory imprisonment for not less than thirty days nor more than fifteen years when great bodily injury results."

The Clerk of Court stated the levying of these fines below the minimum was due to oversight.

We recommend the General Sessions Court implement procedures to ensure that fines levied adhere to the minimum and maximum required by State law.

ASSESSMENT AND COLLECTION OF SURCHARGES

During our test of General Sessions Court collections and remittances, we noted the Court improperly assessed surcharges as follows:

1. The Court incorrectly assessed and collected a \$200 surcharge for a DUI second offense violation. Section 14-1-211(A)(2) of the 1976 South Carolina Code of Laws, as amended, states, "In addition to all other assessments and surcharges, a one hundred dollar surcharge is imposed on all convictions pursuant to Section 56-5-2930 and Section 56-5-2933".
2. The Court improperly collected an additional \$25 from an individual for a possession of marijuana second offense violation. Proviso 90.2 of the 2008-2009 Appropriations Act states, "In addition to all other assessments and surcharges, a twenty-five dollar surcharge is imposed in the general sessions court...for misdemeanor traffic offenses or for nontraffic violations."
3. The Court incorrectly assessed and collected a \$100 General Session's conviction surcharge and a \$100 drug court surcharge for a failure to stop for blue light first offense, which is a misdemeanor traffic offense. Section 14-1-211(A)(1) of the 1976 South Carolina Code of Laws, as amended, states, "...a one hundred dollar surcharge is imposed on all convictions obtained in general sessions court...The surcharge may not be imposed on convictions for misdemeanor traffic offenses". Proviso 46.7 of the 2008 – 2009 Appropriations Act states, "a one-hundred-dollar surcharge is also levied...for misdemeanor or felony drug offenses".
4. The Court incorrectly levied and collected a \$100 DUI surcharge, a \$25 law enforcement funding surcharge and a \$5 criminal justice academy surcharge for a felony DUI violation. Section 14-1-211(A)(2) of the 1976 South Carolina Code of Laws, as amended, states "a one hundred dollar surcharge is imposed on all convictions pursuant to Section 56-5-2930 and Section 56-5-2933". Proviso 90.2 of the 2008 – 2009 Appropriations Act states, "a twenty-five dollar surcharge is also levied...for misdemeanor traffic offenses or for nontraffic violations". Proviso 90.7 of the 2008 – 2009 Appropriations Act states, "a five dollar surcharge to fund training at the South Carolina Criminal Justice Academy is also levied...for misdemeanor traffic offenses or for nontraffic violations."

The Deputy Clerk of Court of the general sessions court stated these errors were due to oversight by court personnel.

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

INSTALLMENT FEE

During our test of General Sessions Court collections and remittances, we noted three instances where an individual paid the total amount due in one payment but was charged an installment fee.

The Deputy Clerk of Court for General Sessions Court stated the cause of this was oversight by Court personnel.

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."

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

REMITTANCE OF FINE TO THE DEPARTMENT OF NATURAL RESOURCES

Section 50-9-910(A) of the 1976 South Carolina Code of Laws, as amended, states, "Revenue from fines and forfeitures for violations of Chapters 1 through 16, except for violations of marine resources laws, must be transmitted to the treasurer of the county where the revenue was collected. The treasurer shall transmit the revenue to the director of the department accompanied by a statement showing the names of persons fined, the amount of each fine, the summons or warrant number, and the court in which each fine was collected."

During our test of General Sessions Court collections and remittances, we noted the County did not submit revenue collected from a game and fish fine to the Department of Natural Resources (DNR) as required by State law.

The County's Finance Manager stated the revenue was inadvertently excluded from the remittance to DNR.

We recommend the County implement procedures to ensure all revenue collected from DNR fines is properly remitted in accordance with State law.

TIMELY SUBMISSION OF STATE TREASURER'S REVENUE REMITTANCE FORM

We noted seven instances where the County did not submit its State Treasurer's Revenue Remittance Form (STRRF) to the State Treasurer by the fifteenth day of the month as required. We also noted three instances where the County did not submit its supplemental STRRF (lines W and Y only) to the State Treasurer by the fifteenth day of the month as required.

We used the State Treasurer's receipt date and the date on the fax confirmation report to determine if the STRRF were submitted timely. For the supplemental STRRF, we used the documented mailing date on the STRRF since the County does not fax these forms. The forms were submitted from 3 to 17 days late. County personnel attributed the late submissions to the training of six new personnel during the fall of 2008 and the transition and training on the new court accounting software (Court Case Management System) which went live January 1, 2009.

Section 14-1-206(B) of the 1976 South Carolina Code of Laws, as amended, requires the County 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 County implement procedures to ensure the STRRF is submitted by the fifteenth day of each month in compliance with State law.

ACCOUNTING FOR VICTIM ASSISTANCE FUNDS

Clothing Allowance

The County reimburses its Victim Advocates up to \$300 semi-annually for the purchase of clothing. During our testing of victim assistance expenditures, we noted several purchases for plain clothes, but not specifically uniforms, which is an unallowable expenditure. According to personnel, the Sheriff's Office was unaware this was unallowable. Personnel also stated that for the four year period prior to January 2009, the Deputy Sheriff determined which expenditures to charge to victim assistance funds.

Copier Charges

During our testing of victim assistance expenditures we noted the County charged a portion of an invoice for the purchase of copier paper to victim assistance funds. The County could not provide documentation to support this allocation. We also tested an invoice for a copier lease that was solely charged to victim assistance funds. This copier was located at the Sheriff's Office, which is not in the same building with the Victim Assistance Office and was not used by Victim Assistance personnel. According to personnel of the Sheriff's Office, they were aware the lease had been improperly charged.

Criteria

Section 14-1-206(D) of the 1976 South Carolina Code of Laws, as amended, states, "The revenue retained by the county 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." In addition, the South Carolina Court Administration Memorandum, Attachment L, dated June 19, 2008, sets forth guidelines for expenditures of monies collected for crime victim services as recommended by the South Carolina Victims Assistance Network.

Recommendations

We recommend the County reimburse the victim assistance funds for the expenditures improperly charged to Victims Assistance and establish and implement policies and procedures to ensure victim assistance revenue is used only for allowable expenditures in accordance with State law. The County should contact the State Office of Victim Assistance in cases where the County is unsure if the charge is allowable. In addition, the County should develop and implement an allocation plan that will fairly allocate expenditures to the proper departments.

3 copies of this document were published at an estimated printing cost of \$1.43 each, and a total printing cost of \$4.29. Section 1-11-125 of the South Carolina Code of Laws, as amended requires this information on printing costs be added to the document.