

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

GREENVILLE, SOUTH CAROLINA

STATE AUDITOR'S REPORT

JUNE 30, 2013

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**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
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June 11, 2014

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

The Honorable Jill Kintigh, Treasurer
Mr. Paul B. Wickensimer, Clerk of Court
Greenville County
Greenville, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Greenville 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 Paul B. Wickensimer, Clerk of Court
Greenville County Circuit and Family Court System
Greenville, South Carolina

The Honorable Ms. Jill Kintigh, Treasurer
Greenville County
Greenville, South Carolina

We have performed the procedures described below, which were agreed to by the County of Greenville and the Greenville County Circuit, Probate and Family Courts, solely to assist you in evaluating the performance of the Greenville County Circuit, Probate and Family Courts for the fiscal year ended June 30, 2013, in the areas addressed. The County of Greenville and the Greenville 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 Greenville 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 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 Paul B. Wickensimer, Clerk of Court
The Honorable Ms. Jill Kintigh, Treasurer
Greenville 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 finding as a result of these procedures is presented in Assessment and Collection of Fees and Accurate Reporting 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 applied for 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.

There were no findings as a result of these procedures.

The Honorable Nikki R. Haley, Governor
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The Honorable Paul B. Wickensimer, Clerk of Court
The Honorable Ms. Jill Kintigh, Treasurer
Greenville 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 Accurate Reporting 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 Greenville 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 Paul B. Wickensimer, Clerk of Court
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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 July 17, 2008, to determine if the County had taken adequate corrective action.

There were no findings as a result of these procedures.

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 Greenville County Council, Greenville County Clerk of Court, Greenville County Treasurer, Greenville 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 eight instances where the Court should have assessed and collected the Public Defender Application fee for defendants that applied and qualified for a public defender. We were unable to trace this fee collection through the clerk of court's office as that function is carried out by an independent county Indigent Defense Office. This Indigent Defense office assigns cases to the Public Defender's Office.

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 independent Indigent Defense office, as an appropriate official, collects this fee and transmits the weekly collection total every Friday without case numbers which would allow tracing to the cases associated with the payments as well as data entry into the Case Management System. The Indigent Defense office stated that they do track detail by defendant's name and warrant number in their system.

We recommend the Court implement procedures to ensure fees are properly assessed and collected in accordance with State law and that such fees are verifiable within their records.

ASSESSMENT AND COLLECTION OF FEES, Continued

Public Defender Fee

During our test of General Sessions Court collections and remittances, we noted five instances where the Court did not assess and collect the \$500 public defender fee.

Proviso 47.7 of the 2012-2013 Appropriations Act states, "Every person placed on probation on or after July 1, 2003, who was represented by a public defender or appointed counsel, shall be assessed a fee of five hundred dollars...This assessment shall be collected and paid over before any other fees."

The Clerk stated that the judge did not order the fee to be paid upon sentencing.

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

Breathalyzer Fee

During our test of General Sessions Court collections and remittances, we noted two instances 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 that the system automatically charges the breathalyzer test fee and i manual intervention on the part of both the solicitor and Clerk of Court's office personnel is required to remove the charge in these instances.

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

ACCURATE REPORTING

We noted the County did not report the DUI Breathalyzer Test Fee on Line VA – DUI Breathalyzer Test Fee of the STRRF but instead reported the fee on Line V – General Session DUI SLED Pullout-3rd Offense \$200.

Section 14-1-206(B) of the 1976 South Carolina Code of Laws, as amended, states "The county treasurer must...make reports on a form and in a manner prescribed by the State Treasurer." Due to the nature of these reporting errors, we calculated the STRRF amendment necessary for the 12 months ended June 30, 2013.

We determined the Clerk of Court's Office was using an outdated in-house form that improperly combined two amounts from the court reports before the information was sent the County Treasurer's office.

We recommend the County implement procedures to ensure all court collections are properly reported and remitted to the State Treasurer in accordance with State law. We also recommend the County revise and submit an amended STRRF reducing line V by \$693.73 and increasing line VA by \$693.73.

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 Greenville County General Sessions Court for the year ended June 30, 2008 with a report date of July 17, 2008. We determined that Greenville County has taken adequate corrective action on the deficiencies titled Timely Filing, Installment Payments Allocation, No Documentation to Support Withdrawal and Supplemental Schedule of Fines and Assessments.

**COUNTY'S
RESPONSE**



Office of the Clerk of Court

**Paul B. Wickensimer
Clerk of Court for Greenville County
Greenville, South Carolina**

www.greenvillecounty.org

June 17, 2014

Steve Blake, CPA
Cline Brandt Kochenower & Co PA
P O Box 848
Gaffney, SC 29341

Re: State Auditor's Report
June 30, 2013

In reply to the State's audit Assessment and Collection of Fees, I submit the following:

1. Public Defender Application Fee

Pursuant to an email dated February 25, 2014, it was identified that in Greenville County, the other appropriate official pursuant to 17-3-30(B) is the Indigent Defense Office for Greenville County and contact information was provided. A follow up with the Indigent Defense Office was not conducted as that is a separate entity from the Clerk of Court's office. See attached response from the Indigent Defense Office for Greenville County for an explanation of their policy and procedures regarding the \$40.00 Public Defender Application fee. As to the recommendation, 17-3-30(B) does not require that the payment of the \$40.00 Application fee be verifiable within the Clerk of Court's records. These payments can be verified through the records of the Indigent Office for Greenville County. Pursuant to an agreement and to streamline efforts, the Indigent Office remits the funds collected by them to the Clerk of Court to be remitted to the Greenville County Treasurer. The Clerk of Court's office agreement with the Indigent Defense Office to remit these monies to the County Treasurer is indicative of how Greenville County's intergovernmental agencies work together.

2. Public Defender Fee

The sentencing order that is used for sentencing by the Circuit Court judges is a form that is approved by the S. C. Judicial Department. A box is provided for the Judge to indicate that a Public Defender is appointed and requires the fee to be paid to the Clerk. If that box is checked, the Clerk of Court does assess the \$500.00 Public Defender fee. The Clerk of Court can only assess the fee where the box is checked by the Judge. Any deficiencies regarding this process should be addressed by the S. C. Judicial Department as the Clerk of Court has no authority to override a judge's order.

3. Breathalyzer Fee

We have contacted S. C. Court Administration regarding the assessment of this fee. The Clerks of Court's records that we are required to keep does not include whether or not a breathalyzer test had been administered. S. C. Code section does not specifically address whether or not the fee is assessed if the test is administered or not but only that if the defendant is convicted the fee is assessed. See 56-5-2950 (E):

However, if the person is subsequently convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945, then, upon conviction, the person must pay twenty-five

dollars for the costs of the tests. The twenty-five dollars must be placed by the Comptroller General into a special restricted account to be used by the State Law Enforcement Division to offset the costs of administration of the breath testing devices, breath testing site video program, and toxicology laboratory.

As a result, the Clerk of Court's process is to assess the fee if the defendant is convicted of one of the above mentioned code sections. Any change in the process will need to be addressed with the S. C. Judicial Department.

4. Accurate Reporting

The in-house forms the Clerk of Court's office uses are based on the State's Clerk of Court remittal form. The very first page entitled "Monthly Fines and Civil Escrow Receipts" does separate the categories. However, the page entitled "State's Portion of Revenue to Treasurers of Greenville County" did add the amounts together under the GS DUI Pullout, 3rd Offense \$200. As of May 2014, this section has been modified as requested.

If you have any questions concerning the above reply please contact the Clerk of Court's office at 864-467-8554.

Thank you.



Margaret Turner
Accounting Supervisor
Greenville County Clerk of Court
(864) 467-8761



**Greenville
County**

INDIGENT DEFENSE

Zach Klebe
Criminal Justice Coordinator
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(864) 467-8527
www.greenvillecounty.org

June 17, 2014

Steve Blake, CPA, CFE, CICA
Cline Brandt Kochenower & Co PA
P O Box 848
Gaffney, SC 29341

Mr. Blake:

This letter shall stand as the public written response to State Auditor's Report
Dated June 30th, 2013:

The Auditor's report is incomplete in its findings regarding the procedures in place for Greenville County's collection and documentation of the \$40 public defender application fee.

The Greenville County Indigent Defense Office is responsible for screening applicants for court appointed counsel. Our office is the only county level agency operating in South Carolina with this sole function. Indigent Defense determines eligibility and collects and records the payment of the \$40 public defender application fee. Indigent Defense has in place policies for court notification when the fee collection has been deferred. Fees waived at the time of application occur only by written order of a General Sessions Judge and are part of the court record. The Greenville County Office of Indigent Defense maintains record of payment for all applicants who present themselves at the Greenville County Courthouse seeking court appointed counsel.

The Greenville County Office of Indigent Defense operates independently from the Greenville County Circuit Public Defender Office. In the past, Indigent Defense collected the application fees from inmates in the Greenville County Detention Center through the inmates "canteen" account. This practice was set aside at the request of the Circuit Public Defender. In its place, the Greenville County Indigent Defense Office entered into an agreement with the Public Defender's Office establishing a new procedure regarding the

\$40 application for jailed applicants. Per the agreement, the Public Defender Office would accept a written order of appointment from Indigent Defense that clearly stated the collection of the application fee had been deferred. In turn the Public Defender's Office accepted the responsibility of notifying the Judge at the defendant's disposition hearing of the unresolved \$40 fee.

Pursuant to Section 17-3-30(B) of the 1976 South Carolina Code of Laws, as amended, the Greenville County Indigent Defense Office has been appropriately given the authority by the Court to collect and maintain the records for the \$40 Public Defender Application Fee.

Had the auditor not been limited to just the Greenville County Clerk of Courts Office he would have been able to correctly identify the role of the Greenville County Indigent Defense Office. The auditor would have been able to more accurately track the history of the Public Defender \$40 application fee for the 8 records in question.

Respectfully,



Zach Klebe

Criminal Justice Coordinator

Greenville County Indigent Defense Office