

**LEE COUNTY MAGISTRATE COURT
BISHOPVILLE, 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

October 7, 2011

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

The Honorable George R. Gibson, Chief Magistrate
Lee County Magistrate Court
Bishopville, South Carolina

The Honorable H. Wayne Capell, Treasurer
Lee County
Bishopville, South Carolina

We have performed the procedures described below, which were agreed to by the Lee County Chief Magistrate and management of Lee County, solely to assist you in evaluating the performance of the Lee County Magistrate Court for the fiscal year ended June 30, 2011, in the areas addressed. The Lee County and the Lee County Magistrate 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 Magistrate**

- We gained an understanding of the policies and procedures established by the Clerk of Magistrate to ensure proper accounting for all fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- We obtained the Lee County Magistrate Court Case Filed Report for all cases for the fiscal year ended June 30, 2011 from the Clerk of Magistrates. We randomly selected twenty-five cases from the report 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 determined that the fine, fee, assessment and/or surcharge adhered to State law and to the South Carolina Court Administration fee memoranda. We also agreed amounts to the Court's cash receipt records.

The Honorable Nikki R. Haley, Governor
and
The Honorable George R. Gibson, Chief Magistrate
The Honorable H. Wayne Capell, Treasurer
Lee County
October 7, 2011

- We tested the Clerk of Magistrate's Treasurer Reports to determine that the court generated monies 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 and Timely Submission of Clerk of Magistrate's Treasurer Report 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 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 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 Clerk of Magistrate's Treasurer 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, 2010 agreed to the State Treasurer's Revenue Remittance Forms and to the County's general ledger. We also determined if the supplemental schedule of fines and assessments contained all required elements in accordance with State law.

Our findings as a result of these procedures are presented in Timely Submission of State Treasurer's Revenue Remittance Form and Accurate Reporting 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 if the County reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with State law.
- We inspected the July 2010 bank statement for the Lee County Victims Advocacy 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.

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 George R. Gibson, Chief Magistrate
The Honorable H. Wayne Capell, Treasurer
Lee County
October 7, 2011

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 Lee County Council, Lee County Chief Magistrate, Lee County Clerk of Magistrate, Lee 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.

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

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.

ADHERENCE TO FINE GUIDELINES

During our test of Magistrate Court collections and remittances, we noted one instance in which the magistrate did not sentence a defendant who was found guilty of driving under suspension, license not suspended for DUI, third offense, in accordance with State law. The defendant was sentenced to fifteen days jail time.

The Chief Magistrate stated that the deficiency was the result of an oversight on the part of the magistrate.

Section 56-1-460(A)(1) of the 1976 South Carolina Code of Laws, as amended, states, "Except as provided in subitem (2), 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: (3) for a third and subsequent offense, fined one thousand dollars and imprisoned for not less than ninety days nor more than six months, no portion of which may be suspended by the trial judge."

We recommend the Magistrate Court implement procedures to ensure defendants are sentenced in accordance with State law.

ASSESSMENT AND COLLECTION OF SURCHARGES

Conviction Surcharge

During our test of Magistrate court collections and remittances, we noted three instances where the Court did not assess and collect the \$25 conviction surcharge.

The Clerk of Magistrate stated the magistrate failed to impose the surcharge.

Section 14-1-211(A)(1) 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 convictions obtained in magistrates and municipal courts in this State."

Law Enforcement Funding and Criminal Justice Academy Surcharges

During our test of Magistrate court collections and remittances, we noted one instance where the Court did not assess and collect the \$25 law enforcement funding surcharge and the \$5 criminal justice academy surcharge on a fraudulent check case. In most cases, these surcharges are not assessed when a fine is not also assessed (no fine was assessed on this fraudulent check case); however, the South Carolina Court Administration Fee Memorandum dated June 24, 2010, requires the assessment and collection of these surcharges on fraudulent check cases.

The Clerk of Magistrate stated the magistrate did not impose the surcharges.

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, or other monetary penalties imposed in the general sessions court or in magistrates or municipal court of misdemeanor traffic offenses or for nontraffic violations.” Also, Proviso 90.5 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 Magistrate Court implement procedures to ensure surcharges are properly assessed and collected in accordance with State law.

TIMELY SUBMISSION OF CLERK OF MAGISTRATE'S TREASURER REPORT

During our testing of the County's State Treasurer's Revenue Remittance Forms (STRRF), we noted six instances where the Clerk of Magistrate's Office did not submit the Clerk of Magistrate's Treasurer Report to the County Treasurer in accordance with State law.

The Clerk of Magistrate stated the treasurer reports were submitted late due to staff absences and training on the state's court accounting software.

Section 22-1-90 of the 1976 South Carolina Code of Laws, as amended, states, "Every magistrate shall, on the first Wednesday in each month or within ten days thereafter, make to the auditor and treasurer of his county a full and accurate statement of all moneys collected."

We recommend the Magistrate Court implement procedures to ensure the Clerk of Magistrate's Treasurer Report is submitted to the County Treasurer in compliance with State law.

TIMELY SUBMISSION OF STATE TREASURER'S REVENUE REMITTANCE FORM

During our testing of the County's State Treasurer's Revenue Remittance Forms (STRRF), we noted twelve instances where the STRRF were not submitted to the State Treasurer by the fifteenth day of the month as required by State law. All forms were submitted approximately one month late.

The County Treasurer stated the STRRF were submitted late because the Magistrate Court submitted its monthly remittance reports late to the County Treasurer.

Section 14-1-207(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 are submitted by the fifteenth day of each month in compliance with State law.

ACCURATE REPORTING

During our testing of the County's State Treasurer's Revenue Remittance Forms (STRRF), we noted one instance where the amounts reported on Line J – Magistrate Filing Assessment \$25 and Line K – Magistrate Filing Assessment \$10 did not agree to the Clerk of Magistrate's Treasurer Report. We also noted two instances where the DUI Breathalyzer Fee was not reported on Line VA – DUI/DUAC Breathalyzer Test Conviction Fee of the STRRF but was reported on Line V – General Sessions DUI SLED Pullout.

The County Treasurer stated the amounts were reported incorrectly due to clerical errors.

Section 14-1-207(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."

We recommend the County Treasurer implement procedures to ensure all court collections are properly reported to the State Treasurer in accordance with State law. We also recommend the County submit an amended STRRF to correct the reporting errors.

ACCOUNTING FOR VICTIM ASSISTANCE FUNDS

During our testing of victim assistance expenditures, we noted the County charged the following to victim assistance funds, which we have deemed to be unallowable: (1) \$4.74 to Kaeser & Blair and \$5.77 to Blake & Ford, Inc. for late payment finance charges; (2) \$203.40

to America's Best Value Inn for a victim's temporary housing; and (3) \$216.00 to Blake & Ford, Inc. for a Konica Minolta printer cartridge, which we learned was not compatible with the Victim Advocate's printer.

We also noted the County did not maintain adequate documentation to support the following expenditures charged to victim assistance funds: (1) \$222.98 to Angela Ruth, former Victim Advocate; (2) \$280.00 to Charles Lacy for housing assistance; and (3) \$141.89 to Verizon Wireless for cellular phone service.

The County's current Victim Advocate stated the unallowable charges were a result of oversight and that the County's former Victim Advocate did not always maintain adequate documentation for expenditures charged to victim assistance funds.

South Carolina Code of Laws, Section 14-1-207(D), 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; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts." In addition, South Carolina Court Administration Memorandum, Attachment L, effective June 2010, and the South Carolina Victim Service Coordinating 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.

We recommend the County reimburse the victim assistance funds for the expenditures that were improperly charged and/or not adequately supported by source documentation. We also recommend the County establish and implement policies and procedures to ensure victim assistance revenue is used only for expenditures in accordance with State law.

COUNTY'S RESPONSE

JUDICIAL CENTER
OFFICE OF MAGISTRATE
115 GREGG STREET
POST OFFICE BOX 2
BISHOPVILLE, SOUTH CAROLINA 29010
803-484-6463

CIVIL CLERK:
JACQUELINE M. JOSEY

December 9, 2011

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

Dear Mr. Gilbert:

I am authorizing the release of the Lee County Magistrate Court State Auditor's Report ending June 30, 2011.

Below are the Court's responses to the Preliminary Draft State Auditor's Report and the four findings reported in the Auditor's comment section.

1. ADHERENCE TO FINE GUIDELINES

During the test of Magistrate Court collections and remittance, we noted one instance in which the magistrate did not sentence a defendant who was found guilty of driving under suspension, license not suspended for DUI, third offense, in accordance with State law. The defendant was sentenced to fifteen days jail time.

The Chief Magistrate stated that the deficiency was the result of an oversight on the part of the magistrate.

RESPONSE: The Court still agrees with our initial response in the draft audit report and has implement procedures with judges.

2. ASSESSMENT AND COLLECTION OF SURCHARGES

Conviction Surcharge

During the test of Magistrate court collections and remittances, we noted three instances where the Court did not assess and collect the \$25 conviction surcharge.

The Clerk of Magistrate stated the magistrate failed to impose the surcharge.

RESPONSE: The Court still agrees with our initial response in the draft audit report and is now following the State recommendation to properly assess and collect fines.

3. LAW ENFORCEMENT FUNDING AND CRIMINAL JUSTICE ACADEMY SURCHARGES

During the test of Magistrate court collections and remittances, we noted one instance where the Court did not assess and collect the \$25 law enforcement funding surcharge and the \$5 criminal justice academy surcharge on the fraudulent check case. In most cases, these surcharges are not assessed when a fine is not also assessed (no fine was assessed on this fraudulent check case); however, the South Carolina Administration Fee Memorandum dated June 24, 2010, requires the assessment and collection of these surcharges on fraudulent check cases.

The Clerk of Magistrate stated the magistrate did not impose the surcharges.

RESPONSE: The Court still agrees with our initial response in the draft audit report and is now following the State recommendation to properly assess and collect fines.

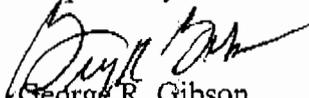
4. TIMELY SUBMISSION OF CLERK OF MAGISTRATE'S TREASURER REPORT

During testing of the County's State Treasurer's Revenue Remittance Forms (STRRF), we noted six instances where the Clerk of Magistrate's Office did not submit the Clerk of Magistrate's Treasurer Report to the County Treasurer in accordance with State law.

The Clerk of Magistrate stated the treasurer reports were submitted late due to staff absences and training on the state's court accounting software.

RESPONSE: The Court still agrees with our initial response in the draft report. We the Court are now submitting the report in a timely matter.

Respectfully submitted,


George R. Gibson
Chief Magistrate

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