

**TOWN OF MONCKS CORNER MUNICIPAL COURT
MONCKS CORNER, SOUTH CAROLINA**

STATE AUDITOR'S REPORT

JUNE 30, 2009

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State of South Carolina



Office of the State Auditor

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RICHARD H. GILBERT, JR., CPA
DEPUTY STATE AUDITOR

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INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

August 13, 2010

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

The Honorable Kathleen Hoover, Associate Judge
Town of Moncks Corner
Moncks Corner, South Carolina

Ms. Marilyn Baker, Treasurer
Town of Moncks Corner
Moncks Corner, South Carolina

We have performed the procedures described below, which were agreed to by the Town of Moncks Corner Municipal Court, solely to assist you in evaluating the performance of the Town of Moncks Corner Municipal Court for the fiscal year ended June 30, 2009, in the areas addressed. The Town of Moncks Corner and the Town of Moncks Corner 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 certain judgmentally selected court monthly remittance reports from the Clerk of Court. We randomly selected 25 receipt transactions from the monthly remittance reports 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 Mark Sanford, Governor,
and
The Honorable Kathleen Hoover, Associate Judge,
Ms. Marilyn Baker, Treasurer
Town of Moncks Corner
August 13, 2010

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

Our findings as a result of these procedures are presented in Adherence to Fine Guidelines, Criminal Justice Academy Surcharge, and Installment Fee in the Accountant's Comments section of this report.

2. **Town Treasurer**

- We gained an understanding of the policies and procedures established by the Town 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 Town for the fiscal year ended June 30, 2009. We agreed the amounts reported on the State Treasurer's Revenue Remittance Forms to the general ledger, 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.
- We verified that the amounts reported by the Town on its supplemental schedule of fines and assessments for the fiscal year ended September 30, 2009 agreed to the State Treasurer's Revenue Remittance Forms and to the Town'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.

3. **Victim Assistance**

- We gained an understanding of the policies and procedures established by the Town to ensure proper accounting for victim assistance funds.
- We made inquiries and performed substantive procedures to determine that any funds retained by the Town for victim assistance were accounted for in a separate account.
- We tested judgmentally selected expenditures to ensure that the Town expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.
- We determined that the Town reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with State law.
- We inspected the Town's general ledger to determine if the Victim Assistance Fund balance was retained as of October 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 Mark Sanford, Governor,
and
The Honorable Kathleen Hoover, Associate Judge,
Ms. Marilyn Baker, Treasurer
Town of Moncks Corner
August 13, 2010

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

- We prepared a schedule of fines, fees, assessments and surcharges for the Town for the 36 months ended June 30, 2009 using the Court's cash receipts records and monthly remittance reports. We compared amounts from this schedule to amounts reported on the State Treasurer's Revenue Remittance Forms and calculated the amount over/(under) reported by the Town by category.

The results of our procedures disclosed that the Town had underreported amounts due to the State and Victim Assistance fund. See Attachment 1 in the Accountant's Comments section of this report for further detail.

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 March 31, 2007 and dated July 31, 2007, to determine if the Town had taken adequate corrective action.

Our finding as a result of these procedures is presented in Adherence to Fine Guidelines 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, Chairman of the Senate Finance Committee, Chairman of the House Judiciary Committee, Chairman of the Senate Judiciary Committee, members of the Town of Moncks Corner Town Council, Town of Moncks Corner Municipal Judge, Town of Moncks Corner Clerk of Court, Town of Moncks Corner 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.

ADHERENCE TO FINE GUIDELINES

During our test of Municipal Court collections and remittances, we noted the following instances in which the judge did not fine the defendant in accordance with State law:

1. An individual who pled guilty to disturbing school was fined \$72.29. Section 16-17-420 of the 1976 South Carolina Code of Laws, as amended, states, "Any person violating any of the provisions of this section... shall pay a fine of not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not less than thirty days nor more than ninety days."
2. An individual who plead guilty to sale of beer or wine to a minor, under 21, first offense, was fined \$72.29. Section 61-04-50(A) of the South Carolina Code of Laws, as amended, states, "It is unlawful for a person to sell beer, ale, porter, wine, or other similar malt or fermented beverage to a person under twenty-one years of age. A person who makes a sale in violation of this section, upon conviction: (1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both."

The Municipal Judge stated that the error in the fine assessments was an oversight.

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

CRIMINAL JUSTICE ACADEMY SURCHARGE

During our test of Municipal Court collections and remittances, we noted two instances where the Court did not assess and collect the \$5 criminal justice academy surcharge.

Proviso 90.11 of the 2008-2009 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...municipal court for misdemeanor traffic offenses or for nontraffic violations."

The Clerk of Court stated the fee was not assessed because the violation occurred before the fee became law. However, according to the law cited above and according to South Carolina Court Administration personnel, the surcharge is assessed at the time of the court date or the date when the roadside bond is paid.

We recommend the Court implement procedures to ensure the criminal justice academy surcharge is properly levied and collected in accordance with State law.

INSTALLMENT FEE

During our testing of Municipal Court collections and remittances, we noted four instances where the Town assessed and collected the three percent installment fee from individuals who paid the total amount due after the plea date. Town personnel stated that the Court's policy requires the three percent installment fee to be assessed on all cases where the defendant does not pay on the date of plea.

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 she was unaware that the Court's policy was not in accordance with State law.

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

ACCURATE REPORTING

During our testing of the Town's State Treasurer's Revenue Remittance Forms (STRRF), we noted several amounts reported on the STRRF did not agree to the Town's general ledger. We also noted five instances where the Court did not report and remit the \$100 DUI fine pullout to the State. Due to the nature of these reporting errors, we prepared a Schedule of Court Fines and Fees for the 36 months ended June 30, 2009, to determine if the Court over or underreported amounts reported to the State. See Schedule at Attachment 1.

Town personnel stated that reported amounts did not agree to the general ledger because certain batches of cash receipts were posted in the subsequent month after the periodic fee report which was used to prepare the STRRF had been generated by the Court accounting software. With respect to the DUI pullout, Town personnel stated this was a result of an error in the Court accounting software.

Section 14-1-220 of the 1976 South Carolina Code of Laws, as amended, states, "Each...municipal clerk of court or other person who receives monies from the cost of court assessments in criminal or traffic cases in the municipal courts shall transmit all these monies to the Office of the State Treasurer." In addition, Section 56-5-2930(F) of the 1976 South Carolina Code of Laws, as amended, specifies that, "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."

We recommend the Town implement procedures to ensure all court collections are reported and remitted to the State Treasurer in accordance with State law and have been reconciled to accounting records and reviewed for accuracy. We also recommend the Town revise and submit an amended STRRF in accordance with Attachment 1.

ACCOUNTING FOR VICTIM ASSISTANCE FUNDS

During our testing of victim assistance expenditures, we noted the following instances where the Town charged an unallowable expenditure to victim assistance funds:

1. We noted the Town charged \$2,000 for the preparation of the schedule of court fines, assessments and surcharges for the fiscal years ended September 30, 2008 and 2007 to victim assistance funds, which is not an allowable expense. Section 14-1-208(E)(3) of the 1976 South Carolina Code of Laws, as amended, requires the municipality to "...retain and pay from the fines and assessments collected pursuant to this section the actual expense charged by the external auditor for the preparation of the supplemental schedule required in this subsection, not to exceed one thousand dollars each year." 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.
2. The Town charged \$176.99 for bracelets for victims to the victim assistance account. 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". 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.

We recommend the Town 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 Town should contact the State Office of Victim Assistance in cases where the Town is unsure if the charge is allowable.

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 Town of Moncks Corner Municipal Court System for the year ended March 31, 2007 and dated July 31, 2007. We determined that the deficiency titled Adherence to Judicial Department Fine Guidelines still exists; consequently we have reported a similar finding in Section A of the report. We also determined that the Town of Moncks Corner has taken adequate corrective action on the deficiency titled Timely Filing.

Town of Moncks Corner Municipal Court
 Schedule of Court Fines and Fees Over/(Under) Reported
 For the 36 months ended June 30, 2009

Attachment 1

Allocation in Accordance with State Law

	Total Court Collections	DUS DPS Pullout - \$100	DUI Assessment - \$12	DUI Surcharge	DUI DPS Pullout - \$100	Drug Surcharge - \$100 per case	Law Enforc. Surcharge - \$25 Per Case	Criminal Justice Academy Surcharge - \$5 Per Case	Municipal - State Assessment	Municipal - Victim Services Assessment	Municipal - Victim Services Surcharge
Total FYE June 2007	260,700.50	4,500.00	36.00	200.00	200.00	1,600.00	43,968.64	-	182,370.91	21,796.17	6,028.78
Total FYE June 2008	194,923.25	3,700.00	60.00	500.00	500.00	1,100.00	35,436.64	-	129,756.50	17,583.58	6,286.53
Total FYE June 2009	293,138.86	4,762.86	84.00	700.00	500.00	800.00	55,977.49	10,037.97	189,075.55	24,063.94	7,137.05
Total Court Collections	748,762.61	12,962.86	180.00	1,400.00	1,200.00	3,500.00	135,382.77	10,037.97	501,202.96	63,443.69	19,452.36
Remittances per State Treasurer's Revenue Remittance Forms	663,857.04	12,962.86	180.00	1,400.00	-	3,500.00	135,207.77	10,007.97	500,598.44		
Total Retained for Victim Assistance	<u>82,820.09</u>									<u>63,367.73</u>	<u>19,452.36</u>
	<u>(2,085.48)</u>										
Balance Due From/(Due to) State	(2,009.52)	-	-	-	(1,200.00)	-	(175.00)	(30.00)	(604.52)		
Balance Due From/(Due to) Victim Assistance	(75.96)									(75.96)	-
State Treasurer Revenue Remittance Form Line		F	G	H	I	J	K	KA	L	N	O

TOWN'S RESPONSE

Mayor
William W. Peagler, III



Administrator
Marc Hehn
Clerk & Treasurer
Marilyn M. Baker

"Capital of Santee Cooper Country"

Council Members:
Johna T. Bilton
William W. Blanchard
David A. Dennis, Jr.
David R. Kizer
Michael A. Locklear
Dr. Tonia A. Taylor

November 10, 2010

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

Re: Release Authorization and Management Response of the State Accountant's
Comments for the Town of Moncks Corner Municipal Court and Victim's
Assistance Fund For the Fiscal Year Ending June 30, 2009.

Dear Mr. Gilbert:

Please accept our letter as authorization to release the report regarding your findings
noted for the Town of Moncks Corner Municipal Court and Victim's Assistance Fund for
the Fiscal Year Ending June 30, 2010.

In addition we would like to respond to your findings in the draft report as follows:

Adherence to Fine Guidelines:

The State Accountant noted two instances in which the judge did not fine the defendant
in accordance with State Law. The Municipal Judge stated that the error in the fine
assessments was an oversight.

The Municipal Court is implementing procedures to ensure that fines levied adhere to the
minimum and maximum required by State Law.

-11-

PO Box 700/118 Carolina Ave, Moncks Corner. SC 29461

<http://townofmonckscorner.sc.gov>

Fire Department
(843) 719-7990

Police Department
(843) 719-7930

Administration, Recreation & Public Service
(843) 719-7900

Municipal Court
(843) 719-7918

Planning & Development
(843) 719-7913

Criminal Justice Academy Surcharge:

The State Accountant noted two instances where the Municipal Court did not assess and collect the \$5 Criminal Justice Academy Surcharge in accordance with State Law. The Municipal Clerk was under the assumption that the fee did not apply because the violation occurred before the fee became law.

Due to the Municipal Clerk's explanation, this issue is currently moot; however, the Municipal Court continues to implement procedures to ensure that the Criminal Justice Academy Surcharge is properly levied and collected in accordance with State Law.

Installment Fee:

The State Accountant noted four instances where the Town assessed and collected the three percent installment fee from individuals who paid the total amount due after the plea date. Town personnel stated that the Court's policy requires the three percent installment fee to be assessed on all cases where the defendant does not pay on the date of plea. The Clerk of Court stated she was unaware that the Court's policy was not in accordance with State Law.

The Clerk of Court has abandoned previous installment fee policies and is in the immediate process of implementing procedures to ensure the installment fee is charged and collected in accordance with State Law.

Accurate Reporting:

The State Accountant tested the Town's State Treasurer's Revenue Remittance Forms and found several amounts reported on the STRRF did not agree to the Town's general ledger. Also noted were five instances where the Court did not report and remit the \$100 DUI fine pullout to the State. Town personnel stated that reported amounts did not agree to the general ledger because certain batches of cash receipts were posted in the subsequent month after the periodic fee report which was used to prepare the STRRF had been generated by the Court accounting software. With respect to the DUI pullout, Town personnel stated this was a result of an error in the court accounting software.

Town personnel contacted the software company (Incode) in reference to the issues at hand. The software company identified the problems in the court accounting software and has corrected the problem. Town personnel have implemented procedures to ensure all court collections are reconciled to the accounting software and reviewed for accuracy prior to submission to the State Treasurer. The Town will prepare and submit a State Treasurers Revenue Remittance Form in accordance with Attachment 1 as provided by the State Accountant for the underreported amounts due to the State.

Accounting For Victim Assistance Funds:

Two unallowable expenditures to the Victim Assistance Funds were noted by the State Accountant.

1. A charge of \$2,000 for the preparation of the schedule of court fines, assessments and surcharges for the Annual Financial Statements for the fiscal years ended September 30, 2008 and 2007 charged by the external auditor was noted by the State Accountant as an unallowable expense.

Expenditures for the preparation of the schedule of court fines, assessments and surcharges for the Annual Financial Statements were charged to the Victims Assistance Funds in error. Reimbursement has been made to the Victim Assistance Fund. We have obtained a copy of allowable expenses for the Victim Assistance Fund according to State law. Policies are being established to avoid any future expenditure that is not in accordance with State law.

2. \$176.99 was charged to the victim assistance account to purchase silicone risk bands for victim awareness. The State Accountant noted that this expenditure was improperly charged to the Victim's Assistance Fund. The Victim Advocate stated that she thought that this would be an allowable expenditure, such as a brochure, given that the silicone risk bands were distributed at the Law Enforcement Day Fair held at the Citadel Mall in Charleston to let the public know that help is available to those who need assistance through our agency.

Reimbursement has been made to the Victim's Advocate Fund and policies are being established to avoid any future expenditure that is not in accordance with State law.

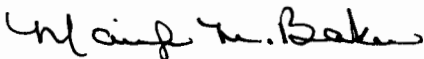
Town staff has discussed these findings and have taken action to correct these deficiencies. Our constant goal is to conduct our daily activities to the highest standards and in accordance with law.

Thank you for your assistance and if you have any questions, please feel free to contact us at 843-719-7900.

Sincerely,



Kathleen E. Hoover,
Associate Judge



Marilyn M. Baker,
Clerk-Treasurer

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