

**TOWN OF COTTAGEVILLE MUNICIPAL COURT**  
**COTTAGEVILLE, SOUTH CAROLINA**

**STATE AUDITOR'S REPORT**

**JUNE 30, 2010**

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# State of South Carolina



## Office of the State Auditor

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DEPUTY STATE AUDITOR

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

September 30, 2010

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

The Honorable Wendell Butterfield, Associate Judge  
Town of Cottageville  
Cottageville, South Carolina

Ms. Sandy Cox, Town Clerk  
Town of Cottageville  
Cottageville, South Carolina

We have performed the procedures described below, which were agreed to by the Town of Cottageville Municipal Court, solely to assist you in evaluating the performance of the Town of Cottageville Municipal Court for the period July 1, 2008, to June 30, 2010, in the areas addressed. The Town of Cottageville and the Town of Cottageville 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 fees, fines, 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 fee, fine, assessment and surcharge calculation to ensure that the fee, fine, assessment or surcharge was properly allocated in accordance with applicable State law. We also determined that the fee, fine, assessment and/or surcharge adhered to State law and to the South Carolina Court Administration fee memoranda.
- 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.

The Honorable Mark Sanford, Governor  
and  
The Honorable Wendell Butterfield, Associate Judge  
Ms. Sandy Cox, Town Clerk  
Town of Cottageville  
September 30, 2010

Our findings as a result of these procedures are presented in Adherence to Fine Guidelines, Assessment and Collection of Surcharges and Fees, and Timely Submission of Clerk of Court's Monthly Remittance Form 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 fees, fines, 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 period July 1, 2008 through June 30, 2010. 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.

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 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 made inquiries and inspected the general ledger to ensure that the Town expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.
- We inspected the Town's fiscal year ended June 30, 2008 and June 30, 2007 audited financial statements to determine 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 July 1 from the previous fiscal year in accordance with State law.

Our findings as a result of these procedures are presented in Accounting for Victim Assistance Funds and Supplementary Schedule in the Accountant's Comments section of this report.

The Honorable Mark Sanford, Governor  
and  
The Honorable Wendell Butterfield, Associate Judge  
Ms. Sandy Cox, Town Clerk  
Town of Cottageville  
September 30, 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, 2010 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.

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 twenty-four months ended June 30, 2010, 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 Cottageville Town Council, Town of Cottageville Municipal Judge, Town of Cottageville Clerk of Court, Town of Cottageville 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 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 speeding twenty-three miles per hour above the posted speed limit was fined \$75.10. Section 56-5-1520(G), of the 1976 South Carolina Code of Laws, as amended, states, "A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (3) in excess of fifteen miles an hour but less than twenty-five miles an hour above the posted limit by a fine of not less than fifty dollars nor more than seventy-five dollars."
2. An individual was fined \$509.40 for violation of Cottageville Town Code 18.107a. which states, "No person shall operate a motor vehicle on any street without, in his possession, a valid driver's license issued by this or another state to operate the vehicle, and said vehicle shall have current license tags." The penalty for this violation is established by Cottageville Town Code Section 7.301. which states that said offense is punishable by a fine not exceeding five hundred dollars (\$500.00) or imprisonment not exceeding thirty (30) days, or both.

The Ministerial Recorder 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.

## **ASSESSMENT AND COLLECTION OF SURCHARGES AND FEES**

### **Victim Fund Surcharge**

During our test of Municipal Court collections and remittances, we noted two instances where the Court did not assess and collect the \$25 victim fund surcharge.

The Ministerial Recorder stated this was due to an error in the LawTrac court accounting software.

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...municipal courts in this State. No portion of the surcharge may be waived, reduced, or suspended." This Section does not apply to misdemeanor traffic offenses or parking violations.

### **Breathalyzer Fee**

During our test of Municipal Court collections and remittances, we noted one instance where the Court did not assess and collect the \$25 breathalyzer fee.

The Ministerial Recorder stated this was due to an error in the LawTrac court accounting software.

Section 56-5-2950(E) of the 1976 South Carolina Code of Laws, as amended, states, "...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."

### **Recommendation**

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

### **TIMELY SUBMISSION OF CLERK OF COURT'S MONTHLY REMITTANCE FORM**

We noted fourteen instances where the Clerk of Court did not submit the Court's financial data to the Town Treasurer in accordance with State law.

We used the submission date printed on the State Treasurer's Revenue Remittance Form by the LawTrac court accounting software to determine if the forms were submitted timely. The forms were submitted from one week to five months late. The Ministerial Recorder stated she printed and submitted the forms upon request of the Town Treasurer. She also stated that as a result of the Town Treasurer's termination in January 2010, there were delays in the information being submitted.

Section 14-25-85 of the 1976 South Carolina Code of Laws, as amended, states, "All fines and penalties collected by the municipal court shall be forthwith turned over by the clerk to the treasurer of the municipality for which such court is held." We determined forthwith to mean no more than five business days after collection.

We recommend the Town implement procedures to ensure the Clerk of Court's monthly remittance form is submitted to the Town Treasurer in compliance with State law.

**TIMELY SUBMISSION OF STATE TREASURER'S REVENUE REMITTANCE FORM**

During our testing of the Town's State Treasurer's Revenue Remittance Forms (STRRF), we noted six out of twenty-four STRRF were not submitted to the State Treasurer by the fifteenth day of the month as required by State law. The forms were submitted from approximately one to three months late. The remaining eighteen STRRF were completed by Town personnel but were not submitted to the State Treasurer. To determine the amount that the Town underreported to the State we prepared a schedule of court fines and fees for the 36 months ended June 30, 2010. See Schedule at Attachment 1.

The Town's former Mayor stated that the Town did not always submit its STRRF and associated court-generated revenue to the State Treasurer because the revenue was used to pay the Town's operating expenses.

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the Town 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 Town implement procedures to ensure the STRRF is submitted by the fifteenth day of each month in compliance with State law. We also recommend the Town remit court-generated revenue due to the State in accordance with Attachment 1.

## **ACCOUNTING FOR VICTIM ASSISTANCE FUNDS**

During our test of Municipal Court collections and remittances, we noted the Town did not properly retain the victim services assessment for 25 out of 25 cases tested nor did it retain the victim services surcharge for 1 out of 25 cases tested.

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, states, “The city treasurer must remit ... the revenue generated by the assessment imposed in subsection (A) to the municipality to be used for the purposes set forth in subsection (D) ...” . In addition, 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.”

Upon inquiry, the Town’s former Mayor stated that all court revenue collected for victim assistance was pooled with the Town’s general funds to pay the Town’s operating expenses. We reviewed the Town’s general ledger and noted that although the Town had established a separate account for victim assistance funds, the account included both expenditures and cash transfers in and out that were unrelated to victim assistance. Therefore, we determined that the Town did not expend victim assistance funds for the exclusive purpose of victim services. 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.”

Due to the Town's improper accounting of victim assistance funds, we prepared a schedule of court fines and fees for the 36 months ended June 30, 2010, to determine the amount the Town should reimburse the victim assistance fund. See Schedule at Attachment 1.

We recommend the Town establish and implement policies and procedures to ensure victim assistance revenue is used only for allowable expenditures and is accounted for properly in accordance with State law. We also recommend the Town reimburse the victim assistance funds in accordance with Attachment 1.

### **SUPPLEMENTARY SCHEDULE**

A supplementary schedule of fines and assessments was not included in the Town's fiscal year ended June 30, 2008, and June 30, 2007 audited financial statements, as required by State law.

Section 14-1-208(E) of the 1976 South Carolina Code of Laws, as amended, states, "To ensure that fines and assessments imposed pursuant to this section and Section 14-1-209(A) are properly collected and remitted to the State Treasurer, the annual independent external audit required to be performed for each municipality...must include...a supplementary schedule detailing all fines and assessments collected at the court level, the amount remitted to the municipal treasurer, and the amount remitted to the State Treasurer."

We did not receive a response from the independent auditors who audited the Town's financial statements as to why the required schedule was omitted.

We recommend the Town implement procedures to ensure the supplementary schedule of fines and assessments is included in its annual audited financial statements and contains all required elements in accordance with State law.

Town of Cottageville Municipal Court  
 Schedule of Court Fines and Fees Over/(Under) Reported  
 For the 36 months ended June 30, 2010

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	Municipal - Other Victim Services Assessments
Total FYE June 2008	334,402.41	1,700.00	10.83	90.24	90.24	1,500.00	62,187.68	-	238,359.98	30,238.28	225.16	-
Total FYE June 2009	267,899.81	3,263.02	84.60	705.04	705.04	2,511.62	52,227.01	9,338.35	176,444.27	22,172.24	448.62	-
Total FYE June 2010	220,080.24	2,115.01	39.56	329.72	329.72	2,910.82	41,249.40	7,738.53	146,515.96	18,561.70	289.82	-
<b>Total Court Collections per Cash Receipt Records</b>	<b>822,382.46</b>	<b>7,078.03</b>	<b>134.99</b>	<b>1,125.00</b>	<b>1,125.00</b>	<b>6,922.44</b>	<b>155,664.09</b>	<b>17,076.88</b>	<b>561,320.21</b>	<b>70,972.22</b>	<b>963.60</b>	<b>-</b>
<b>Remittances per State Treasurer's Revenue Remittance Forms</b>	<b>340,072.74</b>	<b>2,447.38</b>	<b>44.71</b>	<b>372.60</b>	<b>372.60</b>	<b>1,827.88</b>	<b>70,279.68</b>	<b>3,970.40</b>	<b>260,757.49</b>			
<b>Total Retained for Victim Assistance</b>	<b>24,212.91</b>									<b>24,067.16</b>	<b>145.75</b>	<b>-</b>
	<u><b>458,096.81</b></u>											
Balance Due From/(Due to) State	(410,373.90)	(4,630.65)	(90.28)	(752.40)	(752.40)	(5,094.56)	(85,384.41)	(13,106.48)	(300,562.72)			
Balance Due From/(Due to) Victim Assistance	(47,722.91)									(46,905.06)	(817.85)	-
<b>Additional Amounts Due to Victim Assistance per Town's G/L:</b>												
1) Funds paid out of victim assistance account for August 2008, December 2008, and January 2009 remittance to State Treasurer.	(46,800.09)											
2) Transfer from victim assistance account to town operating account	(10,000.00)											
<b>Adjusted Total Due From/(Due to) Victim Assistance</b>	<b>(104,523.00)</b>											
State Treasurer Revenue Remittance Form Line		F	G	H	I	J	K	KA	L	N	O	OA

**TOWN'S RESPONSE**



# Town of Cottageville

P.O. Box 57  
Cottageville, SC 29435  
(843) 835-8655

State of South Carolina Auditor,

The Town of Cottageville has looked over the preliminary draft report of our Municipal Court financial records. We do agree that everything is correct. We do authorize the release of this report. If you have any further question please feel free to give us a call.

Sandy N. Cox

A handwritten signature in cursive script that reads "Sandy N. Cox".

Town Clerk

3 copies of this document were published at an estimated printing cost of \$1.49 each, and a total printing cost of \$4.47. Section 1-11-125 of the South Carolina Code of Laws, as amended requires this information on printing costs be added to the document.