

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

**NEWBERRY, 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

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

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July 1, 2014

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

The Honorable Jackie S. Bowers, Clerk of Court  
The Honorable Karen Lindler Smith, Treasurer  
Newberry County  
Newberry, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Newberry 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/trb

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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 Jackie S. Bowers, Clerk of Court  
Newberry County Circuit and Family Court System  
Newberry, South Carolina

The Honorable Karen Lindler Smith, Treasurer  
Newberry County  
Newberry, South Carolina

We have performed the procedures described below, which were agreed to by the County of Newberry and the Newberry County Circuit, Probate and Family Courts, solely to assist you in evaluating the performance of the Newberry County Circuit, Probate and Family Court Systems for the fiscal year ended June 30, 2013, in the areas addressed. The County of Newberry and the Newberry 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 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 the General Sessions' beginning and ending 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 Jackie S. Bowers, Clerk of Court  
The Honorable Karen Lindler Smith, Treasurer  
Newberry 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 findings as a result of these procedures are presented in Adherence to Fine Guidelines and Assessment and Collection of Fees 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 issued 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.

Our finding as a result of these procedures is presented in Accurate Reporting – Probate Court in the Accountant's Comments section of this report.

The Honorable Nikki R. Haley, Governor  
and  
The Honorable Jackie S. Bowers, Clerk of Court  
The Honorable Karen Lindler Smith, Treasurer  
Newberry 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 Supplementary Schedule 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 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 Jackie S. Bowers, Clerk of Court  
The Honorable Karen Lindler Smith, Treasurer  
Newberry County  
April 17, 2014

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 Newberry County Council, Newberry County Clerk of Court, Newberry County Treasurer, Newberry 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.

A handwritten signature in blue ink that reads "Cline Brandt Kochenower & Co. P.A." The signature is written in a cursive, flowing style.

Cline Brandt Kochenower & Co. P.A.

**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 three instances where the Court did not sentence the defendant in accordance with State law:

1. One defendant who pled guilty to drug trafficking, 3<sup>rd</sup> Offense was sentenced to 100 months. Section 44-53-375( C )(1) of the 1976 South Carolina Code of Laws, as amended, states, “(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars; “
2. One defendant who pled guilty to DUI 1<sup>ST</sup> <.10 was fined \$500. Section 56-5-2930(A) of the 1976 South Carolina Code of Laws, as amended, states, “...must be punished as follows: (1) for a first offense, by a fine of four hundred dollars or imprisonment for not less than forty-eight hours nor more than thirty days.”
3. One defendant who pled guilty to DUI 1<sup>ST</sup> >.16 was fined \$350. Section 56-5-2930(A) of the 1976 South Carolina Code of Laws, as amended, states, “...must be punished as follows: (1) for a first offense ... If the person's alcohol concentration is sixteen one-hundredths of one percent or more, then the person must be punished by a fine of one thousand dollars or imprisonment for not less than thirty days nor more than ninety days.” Section 56-5-2930 (C) further states, “The fine for a first offense must not be suspended. The court is prohibited from suspending a monetary fine below that of the next preceding minimum monetary fine.” The next preceding minimum monetary fine is \$500.

The clerk stated that for item 1 above, the cause was unknown. For items 2 and 3 the judge sentenced the defendants using judicial discretion. The clerk further stated that she has no control over the sentences a judge hands down.

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

## **ASSESSMENT AND COLLECTION OF FEES**

### **Breathalyzer Fee**

During our test of General Sessions Court collections and remittances, we noted one instance where the Court did not assess the \$25 breathalyzer test fee for a DUI case in which the defendant took the breathalyzer test and was subsequently convicted.

Section 56-5-2950(E) of the 1976 South Carolina Code of Laws, as amended, states, "The costs of the tests administered at the direction of the law enforcement officer must be paid from the general fund of the state. 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 Clerk of Court stated this case was manually entered in the software and this fee was overlooked.

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

### **DUI Pullout**

During our test of General Sessions Court collections and remittances, we noted one instance where the Court did not assess the \$100 DUI Pullout in a DUI case.

Section 56-5-2930(F) of the 1976 South Carolina Code of Laws, as amended, states, "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."

The Clerk of Court stated this case was manually entered in the software and this fee was overlooked.

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

## **ACCURATE REPORTING-PROBATE COURT**

During our testing of the County's State Treasurer's Revenue Remittance Forms (STRRF), we noted the Probate Court did not correctly report the actual number of marriage licenses applied for and therefore under remitted marriage license fees by \$175 to the State Treasurer.

Section 20-1-375 of the 1976 South Carolina Code of Laws, as amended, states "... there is imposed an additional twenty dollar fee for each marriage license applied for. This additional fee must be remitted to the State Treasurer and credited to the Domestic Violence Fund....".

The Probate Court stated there are no procedures in place to reconcile fees paid to fees collected and marriage licenses applied for or to verify data input into the software.

We recommend the Probate Court implement procedures to reconcile marriage licenses applied for with the actual fees collected.

## **SUPPLEMENTARY SCHEDULE**

During our testing of the schedule of court fines, assessments and surcharges included in the County's financial statements for the fiscal year ended June 30, 2013, we noted amounts reported as Assessments and Beginning and Ending Fund Balance did not agree to amounts recorded in the county's general ledger. We determined that the schedule did not include amounts submitted by entities that the County contracts with for victim advocate services that collect and remit victim advocate funds to the County.

Section 14-1-206(E)(1) of the 1976 South Carolina Code of Laws, as amended, states, "The supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the court of general sessions; (b) all assessments collected by the clerk of court for the court of general sessions; (c) the amount of fines retained by the county treasurer, (d) the amount of assessments retained by the county treasurer, (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward."

The County's Finance Director stated the schedule was prepared by the County's external auditor and that the ledger was not on the accrual basis. She stated she does not know why the amounts were not in agreement.

We recommend the County implement procedures to ensure amounts reported on the supplementary schedule are accurately reported in accordance with State law.

**COUNTY'S  
RESPONSE**

## **COUNTY'S RESPONSE**

The management of Newberry County has been provided a copy of the finding(s) identified in the Accountant's Comments Section of this report and has elected not to provide a written response to finding(s).