

TOWN OF CLIO MUNICIPAL COURT

CLIO, SOUTH CAROLINA

STATE AUDITOR'S REPORT

JUNE 30, 2015

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**South Carolina
Office of the State Auditor**

**George L. Kennedy, III, CPA
State Auditor**

May 16, 2016

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

The Honorable Robert A. Stanton, Jr., Chief Judge
Town of Clio
Clio, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Clio Municipal Court System as of and for the year ended June 30, 2015, was issued by Steven L. Blake, CPA, 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 blue ink that reads "George L. Kennedy, III".

George L. Kennedy, III, CPA
State Auditor

GLKIII/sag

STEVEN L. BLAKE, CPA

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

May 16, 2016

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

The Honorable Robert A. Stanton, Jr., Chief Judge
Town of Clio Municipal Court
Clio, South Carolina

I have performed the procedures described below, which were agreed to by the Town of Clio Municipal Court, solely to assist you in evaluating the performance of the Town of Clio Municipal Court for the period July 1, 2014 through June 30, 2015, in the areas addressed. The Town of Clio Municipal Court is 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 Office of the State Auditor and the Town of Clio Municipal Court. Consequently, I 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

- I gained an understanding of the policies and procedures established by the Clerk of Court to ensure timely reporting by the Clerk of Court's Office.
- I obtained the court dockets from the Clerk of Court. I judgmentally selected twenty-five cases from the court dockets and recalculated the fine, fee, assessment and surcharge calculation to ensure that the fine, fee, assessment or surcharge was properly adjudicated in accordance with applicable State law and the South Carolina Court Administration Fee Memoranda.
- I tested twenty-five judgmentally selected recorded court receipt transactions to determine that the fine, fee, assessment and/or surcharge amount adheres to State law and the South Carolina Court Administration Fee Memoranda.
- I tested twenty-five judgmentally selected recorded court receipt transactions to determine that the receipts were allocated and apportioned in accordance with applicable State law.

My findings as a result of these procedures are presented in Adherence to Fine Guidelines, Court Software System Setup Error and Court Cash Receipt Procedures in the Accountant's Comments section of this report.

2. Municipal Treasurer

- I gained an understanding of the policies and procedures established by the municipal treasurer to ensure timely reporting by the municipality.
- I obtained copies of all court remittance forms or equivalents and tested each monthly remittance form to ensure that the forms were completed in accordance with instructions and submitted timely in accordance with State law.
- I determined that amounts reported on the monthly court remittance forms or equivalents agreed to the municipality's support.
- I scanned the municipality's support to determine if the municipality had misclassified fine, fee, assessment, and surcharge receipts.
- I obtained copies of all State Treasurer's Revenue Remittance forms for the period July 1, 2014 through June 30, 2015. I vouched the amounts reported on the State Treasurer's Revenue Remittance forms to the court remittance forms or equivalents.
- I determined that the amounts reported by the municipality on its supplemental schedule of fines and assessments agreed to the municipality's support.
- I determined that the municipality reported court financial activity on the supplemental schedule of fines and assessments in accordance with applicable State law.

My findings as a result of these procedures are presented in Timely Submission of State Treasurer's Revenue Remittance Form, Supplementary Schedule and Court Cash Receipt Procedures in the Accountant's Comments section of this report.

3. Victim Assistance

- I gained an understanding of the policies and procedures established by the municipality to ensure proper accounting for victim assistance funds.
- I made inquiries and performed substantive procedures to determine that any funds retained by the municipality for victim assistance were deposited into a separate account.
- I tested selected expenditures to ensure that the municipality expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.
- I determined that the municipality reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with applicable State law.
- I verified that the amounts reported by the municipality on its supplemental schedule of fines and assessments applicable to the Victim Assistance fund agreed to the municipality's general ledger or subsidiary ledgers.

The Honorable Nikki R. Haley, Governor
and
The Honorable Robert A. Stanton, Jr., Chief Judge
Town of Clio Municipal Court
May 16, 2016

- I inspected the municipality's victim assistance 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.

My findings as a result of these procedures are presented in Victim Assistance Funds in the Accountant's Comments section of this report.

4. Calculation of Over/(Under) Reported Amounts

- I obtained copies of monthly State Treasurer Revenue Remittance Forms for the twelve month period ended June 30, 2015, which the Town prepared but did not submit to the Office of the State Treasurer. I calculated the amount under reported by the municipality by category for the period and added the summary to the prior year under reported totals to arrive at a cumulative total as of the 48 months ended June 30, 2015.

The results of my procedures disclosed that the municipality under reported amounts due to the State and Victim Assistance Fund. My finding as a result of these procedures is presented in Under Reported Amounts in the Accountant's Comments section of this report.

5. Status of Prior Findings

- I inquired about the status of findings reported in the Accountant's Comments section of the State Auditor's Report on the municipality resulting from an engagement for the period ended June 30, 2014 to determine if the municipality had taken adequate corrective action.

The results of my follow-up are presented in Section C in the Accountant's Comments section of this report.

I was 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, 2015 and, furthermore, I was 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, I do not express such an opinion. Had I performed additional procedures, other matters might have come to my attention that would have been reported to you.

This report is intended solely for the information and use of the Governor, Chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, members of the Town of Clio Council, Town of Clio Clerk of Court, Town of Clio Treasurer, State Treasurer, State Office of Victim Assistance, the Chief Justice, and the Office of the State Auditor and is not intended to be and should not be used by anyone other than these specified parties.

Steven L. Blake, CPA

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 I 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

The Court fined one individual \$25.06 for speeding, 10 mph or less over the speed limit.

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: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars;

The Clerk of Court stated the court had corrected the rounding issues from the prior engagement report; however, the judge had used the rounded amounts listed on the ticket I tested instead of the amounts from the sentencing guidelines due to an oversight.

I recommend the Municipal Court implement procedures to ensure fines levied by the court adhere to applicable State law.

COURT SOFTWARE SYSTEM SETUP ERROR

The judge sentenced one defendant for a child restraint violation in accordance with State law. When the disposition was entered into the court software system, the software did not assess the violation with the required assessments and surcharges.

Section 56-5-6450 of the 1976 South Carolina Code of Laws, as amended, states “must be fined not more than one hundred fifty dollars.” and does not contain a provision to avoid assessments.

The Clerk of Court stated the violation had been incorrectly setup as a non-assessed violation.

I recommend the Town implement procedures to ensure the current court software system has correctly set up all violations.

TIMELY SUBMISSION OF STATE TREASURER'S REVENUE REMITTANCE FORM

I obtained copies of all State Treasurer Revenue Remittance Forms (STRRF) prepared during the procedures period. During my testing of the Town's State Treasurer Revenue Remittance Forms (STRRF), I noted none of the twelve STRRF was submitted to the State Treasurer as required by State law. All of the twelve STRRF had been prepared by the Town; however, the Town has yet to submit them.

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.

The town treasurer stated the Town's cash flow did not allow for filing.

I recommend the Town implement procedures to ensure the STRRF are submitted by the fifteenth day of each month in compliance with State law.

SUPPLEMENTARY SCHEDULE

The Town provided its audited financial statements for the fiscal year ended June 30, 2008, the latest available audit. The audit report included a schedule of fines and assessments, which I tested to ensure compliance with State law. I determined that the schedule was prepared in accordance with applicable State law and included the required in-relation-to opinion. However, the Town's fiscal year 2008 general ledger was not available and the Town could not provide other documentation demonstrating that the schedule reconciled to the Town's accounting records. Therefore I was unable to verify that the schedule was complete and accurate. The Town has not had an independent audit of its financial records since June 30, 2008.

Section 5-7-240 of the South Carolina Code of Laws, as amended, states, "The council shall provide for an independent annual audit of all financial records and transactions of the municipality and any agency funded in whole by municipal funds..."

The town treasurer stated the Town's cash flow did not allow for independent audits in the past. However, the Town has contracted with an independent auditor to perform June 30, 2009, 2010, 2011, 2012, 2013 and 2014 audits. He further stated that these audits should be completed soon.

I recommend the Town contract with an independent certified public accountant to conduct an audit of its financial statements annually in accordance with State law.

VICTIM ASSISTANCE FUNDS

During my tests of Municipal Court collections and remittances I noted the following:

- The Town has not established a separate fund or bank account for Victim Assistance funds as required by State law.
- The Town does not track Victim Assistance deposits, disbursements or cash balances manually or electronically. Victim Assistance transactions are commingled with the Town's general operating fund deposits in its general fund bank account.
- The June 30, 2008 schedule of fines and assessments reported a Victim Assistance carry forward balance of \$77,677. The Town could not provide documentation to support the individual accounts (receipts, expenditures, etc.) that comprise this balance.

- The general fund cash balance is not sufficient to cover the amounts due Victim Assistance; therefore, the Town has expended Victim Assistance funds to pay Town operating costs.

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.”

The town treasurer stated he had been manually tracking the last four years’ annual amounts due to Victim Assistance but was not able to substantiate through available Town records any amounts prior to that.

I recommend the Town establish and implement policies and procedures to ensure Victim Assistance revenue is accounted for and deposited timely in accordance with State law. I also recommend the Town establish a separate general ledger account to ensure the transparency of its Victim Assistance funds and determine cumulative balances due to Victim Assistance.

UNDER REPORTED AMOUNTS

As reported in the finding Timely Submission of State Treasurer Revenue Remittance Form, the Town prepared but did not submit the monthly STRRF to the State Treasurer. I tested the completeness and accuracy of unsubmitted STTRF for the period July 2012 through June 2014 in the prior year’s engagement (see Section C – Status of Prior Findings below). I tested the completeness and accuracy of unsubmitted STTRF for the period July 2014 through June 2015. Based on the tests performed, I determined the Town underreported the following cumulative amounts:

STRRF LINE	DESCRIPTION	
F.	Municipal DUS DPS Pullout - \$100.00	\$ 300.00
J.	Municipal Drug Surcharge \$100	13.16
K.	Municipal Law Enforcement Surcharge - \$25 per case	16,566.27
KA.	Municipal LE Surcharge - \$5	3,298.27
L.	Municipal Court -107.5%	<u>53,595.53</u>
M.	TOTAL REVENUE DUE TO STATE TREASURER	<u>73,773.23</u>
	RETAINED BY TOWN FOR VICTIM SERVICES	
N.	Assessments - Municipal -107.5%	7,222.84
O.	Surcharges -Municipal	<u>1,056.00</u>
P.	TOTAL RETAINED FOR VICTIM SERVICES	\$ <u>8,278.84</u>

I recommend the Town implement a process to ensure timely filing and payment of amounts due the State Treasurer.

SECTION B – OTHER WEAKNESS

The condition described in this section has been identified while performing agreed-upon procedures but is not considered a violation of State Laws, Rules or Regulations.

COURT CASH RECEIPT PROCEDURES

I was unable to trace offender ticket payments from court receipts to the Town's bank deposit. The Clerk of Court does not remit court receipts to the town treasurer daily. The Clerk of Court now includes a detail list (i.e., name of payee, ticket/docket reference, amount paid, etc.) that comprises the remittance package when she remits cash receipts to the town treasurer as a result of corrections implemented from the prior year report. The town treasurer does not deposit the amount from this detail list (i.e., name of payee, receipt number, check number, check amount, etc.) intact as a separate bank deposit. Instead, it is added to other receipts and deposited cumulatively with those receipts without keeping a copy of the deposit slip.

Supreme Court Justice Toal issued a court order to county magistrates, dated March 13, 2007. Section II, item C. states, "At the end of each day, all receipts issued shall be totaled, and the total indicated on the Daily Cash Summary Report." Section III, item C states further "...deposit slips shall be prepared for each separate account These deposit slips shall include: List of checks deposited (name of Defendant and amount of check must be included), total cash deposited, the starting and ending receipt numbers ..." While this order is directed to county magistrate courts, it could also be applied to municipal courts to improve overall internal control over financial activity.

The town treasurer stated he would obtain copies of the deposit slips from the bank. Because the town treasurer does not maintain a detail list of individual receipts that comprise its bank deposit there is no assurance that the amount received from the Clerk of Court has been remitted by the town treasurer and deposited in the Town's bank account.

The Clerk of Court should remit court receipts to the town treasurer weekly, when practicable. I recommend the town treasurer prepare a listing of payees and amounts supporting its bank deposits. The town treasurer should deposit court receipts intact and apart from other Town receipts and provide a copy of the validated bank deposit slip to the Clerk of Court. The Clerk of Court and the town treasurer should verify that the validated deposit slip reconciles with the "Daily Cash Receipt Report".

SECTION C – STATUS OF PRIOR FINDINGS

During the current engagement, I reviewed the status of corrective action taken on each of the findings reported in the Accountant's Comments section of the State Auditor's Report on the agreed upon procedures for the Town of Clio Municipal Court System for the twelve months ended June 30, 2014 and dated March 6, 2015.

I have repeated Adherence to Fine Guidelines, Timely Submission of State Treasurer's Revenue Remittance Form, Supplementary Schedule (with a modification), Victim Assistance Funds and Under Reported Amounts in Section A and I have repeated Court Cash Receipt Procedures with a modification in Section B.

MUNICIPALITY'S RESPONSE

The management of the Town of Clio has been provided a copy of the findings identified in the Accountant's Comments Section of this report and has elected not to provide a written response to the findings.