

TOWN OF ESTILL MUNICIPAL COURT

ESTILL, 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 28, 2016

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

The Honorable Sheryl McKinney, Chief Judge
Ms. Vonzetta Strong, Clerk of Court
Town of Estill
Estill, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Estill 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 25, 2016

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

The Honorable Sheryl McKinney, Chief Judge and
Ms. Vonzetta Strong, Clerk of Court
Town of Estill Municipal Court
Estill, South Carolina

I have performed the procedures described below, which were agreed to by the Town of Estill Municipal Court, solely to assist you in evaluating the performance of the Town of Estill Municipal Court for the period July 1, 2014 through June 30, 2015, in the areas addressed. The Town of Estill 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 Estill 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, Installment Fee and Uniform Traffic Tickets 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 finding as a result of these procedures is presented in Supplementary Schedule 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.

The Honorable Nikki R. Haley, Governor
and
The Honorable Sheryl McKinney, Chief Judge
Town of Estill Municipal Court
May 25, 2016

- 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.
- 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 36 month period ended June 30, 2015, which the Town prepared and submitted to the Office of the State Treasurer. I calculated the amount under reported by the municipality by category.

The results of my procedures disclosed that the municipality under reported amounts due to the 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.

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 Estill Council, Town of Estill Clerk of Court, Town of Estill 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

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

Speeding

The Court fined one individual \$50.60 for speeding in excess of ten miles an hour but less than fifteen miles an hour above the posted 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:

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

Driving Under Suspension

The Court fined two individuals who were cited for driving under suspension, fixed period, first offense \$299.76 and one \$300.24.

Section 56-1-460(A)(1) of the 1976 South Carolina Code of Laws, as amended, states, "a person...be punished as follows: (a) for a first offense, fined three hundred dollars or imprisoned for up to thirty days, or both;

Driving Under the Influence

The Court fined one individual \$160.48 for Driving Under the Influence, blood alcohol less than .10, first offense.

Section 56-5-2930(A) of the 1976 South Carolina Code of Laws, as amended, states, “A person who violates the provisions of this section... must be punished as follows: (1) for a first offense, by a fine of four hundred dollars

Simple Possession

The Court fined one individual negative \$(2.41) for possession of 28g (1 oz) or less of marijuana or 10g or less of hash or cocaine, 1st offense.

Section 44-53-370(d)(4) of the 1976 South Carolina Code of Laws, as amended, states, “A person who violates this subsection with respect to twenty-eight grams or one ounce or less of marijuana or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two hundred dollars.”

Hit and Run

The Court fined one individual \$88.19 for Hit and Run.

Section 56-5-1220 of the 1976 South Carolina Code of Laws, as amended, states, “A person who fails to stop or comply with the requirements of this subsection is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not less than one hundred dollars nor more than five thousand dollars, or both.”

The Clerk of Court stated the speeding and driving under suspension fines were not in accordance with State law because of rounding of the total fine amounts. All the other fines were not in accordance because of suspending of fines below amounts in accordance with State law.

I recommend the Municipal Court implement procedures to ensure fines levied by the court adhere to applicable State law including not suspending fines, assessments and surcharges which cannot be waived, reduced or suspended.

INSTALLMENT FEE

During my testing of Municipal Court collections and remittances, I noted one instance where the Town assessed and collected the three percent installment fee from an individual who paid the total amount due in one payment after the court date.

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 this installment fee assessment was an oversight.

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

SUPPLEMENTARY SCHEDULE

During my testing of the schedule of fines and assessments included in the Town’s financial statements for the year ended June 30, 2015, the latest available audit, I noted the auditors’ opinion was not an “in-relation-to” opinion. In fact, no form of assurance was given on the supplementary schedule. Also, the schedule’s line item titles mistakenly labeled all assessments and surcharges as victims’ assessments and surcharges. The schedule also incorrectly reported the victims’ assessments and surcharges retained. For more information, see Victim Assistance Funds finding below.

Section 14-1-208(E)(2) and 14-1-211(D)(2) of the 1976 South Carolina Code of Laws, as amended, states, “The supplementary schedule must be included in the external auditor’s

report by an 'in-relation-to' paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents.”

The town treasurer stated the auditor had prepared the schedule and the opinion and would be notified of the errors.

I recommend the Town ensure their financial statements are in accordance with State law.

VICTIM ASSISTANCE FUNDS

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

- The town treasurer had not transferred Victim Assistance Surcharges to the Victim Assistance funds as required by State law during the procedures period or the preceding 24 months. See Under Reported Amounts finding below.
- The June 30, 2015 schedule of fines and assessments only recorded the Victim Assistance Assessment retention by the Town.

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 error would be immediately corrected and was due to a misunderstanding on his part.

I recommend the Town establish and implement policies and procedures to ensure Victim Assistance revenue is accounted for in accordance with State law.

UNDER REPORTED AMOUNTS

As reported in the finding Victim Assistance Funds, the Town did not transfer the Victim Assistance Surcharges to the Victim Assistance Funds. I scanned the reporting of the surcharges for the period July 2012 through June 2015. Based on the tests performed, I determined the Town under reported the following amounts:

STRRF LINE	DESCRIPTION	
	COUNTY VICTIM FUND	
O.	Surcharges - Municipal	<u>2,750.16</u>
P.	TOTAL VICTIM MONEY RETAINED BY LOCAL GOVERNMENT	\$ <u>2,750.16</u>

I recommend the Town implement a process to ensure they transfer all victim assistance monies in accordance with State law.

SECTION B – OTHER WEAKNESS

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

UNIFORM TRAFFIC TICKETS

During my testing I determined three tickets written out of twenty-five tested had inconsistencies between the violation description, the violation code section and/or the charge recorded in the court software.

The Summary Court Judge's Bench Book, provided by and available on the Judicial Department website, Traffic Section, item D, General Principles, item 2, Prohibition of Reduction of Charges states, "Each traffic offense is a separate and distinct offense, and a defendant may not be tried for a traffic offense for which he has not been formally charged in an arrest warrant or a uniform traffic ticket." The Uniform Traffic Ticket is the formal charging document.

The Clerk of Court stated training and focus on this specific issue needs to be done in the writing of uniform traffic tickets to minimize errors.

I recommend the Town continue to focus on consistency in writing Uniform Traffic Tickets.

MUNICIPALITY'S RESPONSE

COUNCIL:
JAMES A. WILLIAMS
FRANKIE BENNETT
TAMMY SOLOMON
CORRIN E. POWERS, III



MAYOR:
ANDERSON TAYLOR

June 6, 2016

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

RE: Town's Response – State Auditor's Report (June 30, 2015)

To Whom It May Concern:

After reviewing the findings in the above-mentioned audit report, we have acknowledged and made the appropriate corrections to gain compliance with the applicable State laws. The Municipal Court has implemented procedures to ensure that fines levied by the court adhere to the applicable State law and to assure all installment fees are charged and collected according to State law.

Additionally, the Town's Auditor has been notified of their mistakes in labeling and reporting victims' assessments and surcharges correctly. This will be noted for clarification as to previous audit reports and corrected in financial statements going forward in accordance with State law.

Policies and procedures used for Victim Assistance revenue accounting have been updated to include Victim Assistance Surcharges being transferred to Victim Assistance funds. All under reported funds have been transferred to the Town's Victim Assistance account for periods July 2012 through June 2015 as of May 20th, 2016. We have also corrected the transfer of all under reported funds for periods July 2015 through March 2016. Starting with court fines for the period of April 2016, all allocations and transfers have been brought up to compliance in accordance with State law.

The legibility of written uniform traffic tickets has been discussed with the Town's Police Chief and will not be a problem going forward. One of the Town's greatest intentions is to ensure that it is working in accordance to all State laws and will put its best effort forward in maintaining that mission.

Sincerely,



Cameron J. Evans
Town Clerk/Treasurer

Cc: Mayor and Town Council
Danny O. Lucas, Town Administrator
The Honorable Sheryl McKinney, Chief Judge
Vonzetta Strong, Clerk of Court

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