

TOWN OF IRMO MUNICIPAL COURT

IRMO, 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**

April 25, 2016

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

The Honorable Joseph M. Epting, Chief Judge
Ms. Kim Hoffman, Clerk of Court
Town of Irmo
Irmo, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Irmo 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

April 25, 2016

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

The Honorable Joseph M. Epting, Chief Judge and
Kim Hoffman, Clerk of Court
Town of Irmo Municipal Court
Irmo, South Carolina

I have performed the procedures described below, which were agreed to by the Town of Irmo Municipal Court, solely to assist you in evaluating the performance of the Town of Irmo Municipal Court for the period July 1, 2014 through June 30, 2015, in the areas addressed. The Town of Irmo 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 Irmo 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, Traffic Education and Conditional Discharge Fees, Incorrectly Reported Amounts, Court Cash Receipt Procedures and Court Software 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 and General Ledger Accounting 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 Joseph M. Epting, Chief Judge
Town of Irmo Municipal Court
April 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 Incorrectly 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 incorrectly reported by the municipality by category.

The results of my procedures disclosed that the municipality incorrectly reported amounts due to the State and Victim Assistance Fund. My finding as a result of these procedures is presented in Incorrectly 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 Irmo Council, Town of Irmo Clerk of Court, Town of Irmo 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:

The court fined one individual \$400.00 for Driving with an Unlawful Alcohol Concentration, [DUAC] with a blood alcohol level greater than 0.16.

Section 56-5-2933(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 If the person's alcohol concentration is at least ten one hundredths of one percent but less than sixteen one hundredths of one percent, then the person must be punished by a fine of five hundred dollars ... 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.” and (C) “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 town clerk stated the judge had incorrectly suspended the amount below that of the next preceding minimum monetary fine.

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

INSTALLMENT FEE

During my testing of municipal court collections and remittances, I noted three instances where the Town assessed and collected the three percent installment fee from individuals 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 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.

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

TRAFFIC EDUCATION AND CONDITIONAL DISCHARGE FEES

The Town's court software system did not assess Traffic Education and Conditional Discharge fees in accordance with state law.

Section 17-22-350(A) states “, a person shall pay a nonrefundable fee, not to exceed one hundred forty dollars, to participate in a traffic education program... and (C) states “For offenses that would have been otherwise tried in municipal court, the governmental agency administering the program shall retain the participation fees to support the traffic education program. The application fees must be remitted to the city treasurer. The city treasurer shall remit 9.17 percent of the revenue from the application fees to the municipality to be used for the purposes set forth in Section 14-1-208(D) and remit the balance of the revenues from the application fees to the Office of 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. Fees paid in installments must be remitted as received.”

The Clerk of Court stated the software does not allow for the original speeding violation to be easily removed and a traffic education fee set up in its place. The tables were not set up in accordance with state law to properly allocate either fee. The software and STRRF were corrected in October 2014 for the errors in the Conditional Discharge fee. The Clerk of Court further stated that all issues regarding the software contained in the report have been addressed with the software vendor and should now be correct. See Incorrectly Reported Amounts finding below.

I recommend the Town remit the corrected fees as discussed in the finding Incorrectly Reported Amounts below.

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 and for the previous 12 months. During my testing of the Town's State Treasurer Revenue Remittance Forms (STRRF), I noted two of the STRRF were not submitted to the State Treasurer timely. They were submitted from 11 to 367 days late.

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 workload prevented one from being on time and a complete oversight caused the other to be late.

I recommend the Town implement procedures to ensure the STRRF are submitted by the fifteenth day of each month in compliance 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 June 30, 2015 schedule of fines and assessments reported a Victim Assistance carry forward balance of \$41,392. The Town could not provide documentation to support the cumulative balance.

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 the Schedule of Fines and Assessments in the financial statement is the Town’s only documentation of the amounts due to Victim Assistance.

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

INCORRECTLY REPORTED AMOUNTS

As reported in the Traffic Education Fee finding, the Town did not submit the correct fees to the State Treasurer. I tested the corrections of the fees for the period July 2012 through June 2015. Based on the tests performed, I determined the Town incorrectly reported the following amounts:

STRRF LINE	DESCRIPTION	
DA.	Municipal Conditional Discharge Fee	\$ 68.51
K.	Municipal Law Enforcement Surcharge - \$25 per case	(348.16)
KA.	Municipal CJA Surcharge - \$5	(69.33)
L.	Municipal Court -107.5%	(1,003.46)
LA.	Municipal Traffic Education Program \$140	<u>1,965.69</u>
M.	TOTAL REVENUE DUE TO STATE TREASURER	<u>613.25</u>
	COUNTY VICTIM FUND	
N.	Assessments - Municipal -107.5%	<u>(122.72)</u>
P.	TOTAL VICTIM MONEY RETAINED BY LOCAL GOVERNMENT	\$ <u>(122.72)</u>

I recommend the Town implement a process to ensure its software complies with state law.

SECTION B – OTHER WEAKNESS

The conditions described in this section have been identified while performing agreed-upon procedures but are not considered violations of State Laws, Rules or Regulations.

COURT CASH RECEIPT PROCEDURES

The Town's court software cash receipting system procedures require the data entry clerk, at the time of the cash receipt, to enter the disposition status before the system will allow the clerk to review the specific ticket information to correctly make this determination. Errors occur as a result of inaccurate information which have caused violations of state law; see Traffic Education and Conditional Discharge Fees finding above.

Supreme Court Justice Toal issued a court order to county magistrates, dated March 13, 2007. Section II, Receipts, item B states, "The receipt should include the following information: ... 6. Charging document number or civil case number;" but it does not require the disposition. Item H states further "...Computerized magistrate courts shall use computer generated receipts. All information required in provision II.B. above shall be included on computer generated receipts except where otherwise indicated." 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 clerk stated the issue has been discussed with the software vendor. At this point no corrections have been forthcoming. The town clerk also stated that training and cross-training have focused on this specific issue to attempt to minimize errors.

I recommend the Town continue to request software corrections and continue to cross-train personnel to enter receipts in accordance with state law.

GENERAL LEDGER ACCOUNTING

The Town's court software system posts automatically to the general ledger. Based on collections posted and the amounts accumulated and paid in the STRRF, the general ledger should zero out every month; it does not. I noted a journal entry which changed the automated postings totals thus contributing to the condition.

The Committee of Sponsoring Organizations (COSO) Internal Control – Integrated Framework December 2011 report, paragraph 286, uses the following definitions for information processing objectives: *Completeness* – Transactions that occur are recorded; *Accuracy* – Transactions are recorded at the correct amount in the right account; *Validity* – Recorded transactions represent economic events that actually occurred and were executed according to prescribed procedures.

The treasurer and clerk stated the accounts are not reconciled on a monthly basis.

I recommend the Town reconcile accounts in accordance with COSO to determine if the information processing objectives related to the court funds are processed in accordance with state law.

COURT SOFTWARE

The software was not initially set up to assess Traffic Education and Conditional Discharge fees in accordance with state law. Error correction is difficult and has initiated other errors in reporting such as negative numbers. The software reported \$25 labeled as “unknown conversion” and did not categorize it in the STRRF.

The Committee of Sponsoring Organizations (COSO) Internal Control – Integrated Framework December 2011 report, paragraph 286, uses the following definitions for information processing objectives: *Completeness* – Transactions that occur are recorded; *Accuracy* – Transactions are recorded at the correct amount in the right account; *Validity* – Recorded transactions represent economic events that actually occurred and were executed according to prescribed procedures.

The clerk stated the software vendor has been contacted regarding these issues and all issues should now be correct.

I recommend the Town’s court software system process transactions in accordance with state law.

MUNICIPALITY'S RESPONSE

The management of the Town of Irmo 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.