

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

STATE AUDITOR'S REPORT

JUNE 30, 2011

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State of South Carolina



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INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

September 28, 2012

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

The Honorable Vergil A. Deas, Municipal Judge
Town of Lincolville
Lincolville, South Carolina

Ms. Sophia James, Town Treasurer/Clerk of Court
Town of Lincolville
Lincolville, South Carolina

We have performed the procedures described below, which were agreed to by the Town of Lincolville, solely to assist you in evaluating the performance of the Town of Lincolville Municipal Court for the fiscal year ended June 30, 2011, in the areas addressed. The Town of Lincolville and the Town of Lincolville 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 fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- We obtained court dockets for all cases for the fiscal year ended June 30, 2011 from the Clerk of Court. We randomly selected twenty-five cases from the dockets 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 determined whether the fine, fee, assessment and/or surcharge adhered to State law and to the South Carolina Court Administration fee memoranda. We also agreed amounts to Court's cash receipt records.

The Honorable Nikki R. Haley, Governor
and
The Honorable Vergil A. Deas, Municipal Judge
Ms. Sophia James, Town Treasurer/Clerk of Court
Town of Lincolnton
September 28, 2012

Our findings as a result of these procedures are presented in Assessment and Collection of Fees and Surcharges, Installment Fee, Accounting for Victim Assistance Funds, Supporting Documentation, and Court Docket Availability 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 fines, fees, 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 fiscal year ended June 30, 2011. We agreed the amounts reported on the State Treasurer's Revenue Remittance Forms to the Court's cash receipt records and to the State Treasurer's receipts. We also agreed the total revenue due to the State Treasurer to the general ledger.
- 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 Town on its supplemental schedule of fines and assessments for the fiscal year ended June 30, 2010 agreed to the State Treasurer's Revenue Remittance Forms and to the Town's general ledger. We also determined if the supplemental schedule of fines and assessments contained all required elements in accordance with State law.

Our findings as a result of these procedures are presented in Submission of State Treasurer's Revenue Remittance Form and Supporting Documentation.

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 if any funds retained by the Town for victim assistance were accounted for in a separate account.
- We determined if 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 Supporting Documentation in the Accountant's Comments section of this report.

The Honorable Nikki R. Haley, Governor
and
The Honorable Vergil A. Deas, Municipal Judge
Ms. Sophia James, Town Treasurer/Clerk of Court
Town of Lincolnton
September 28, 2012

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 twelve months ended June 30, 2011, 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 Lincolnton Town Council, Town of Lincolnton Municipal Judge, Town of Lincolnton Clerk of Court, Town of Lincolnton 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.

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

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 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.

ASSESSMENT AND COLLECTION OF FEES AND SURCHARGES

107.5% Assessment

During our test of Municipal Court collections and remittances, we noted two instances where the Court did not assess and collect the 107.5% assessment on fines as required by State law.

The Town Treasurer/Clerk of Court stated she was unaware this assessment should be levied on violations not written on a Uniform Traffic Ticket.

Section 14-1-208(A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who is convicted of, or pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in municipal court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. The assessment is based upon that portion of the fine that is not suspended, and assessments must not be waived, reduced, or suspended."

Conviction Surcharge

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

The Town Treasurer/Clerk of Court stated she was unaware this surcharge should be levied on violations not written on a Uniform Traffic Ticket.

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 magistrates and municipal courts in this State. No portion of the surcharge may be waived, reduced, or suspended."

Law Enforcement Funding Surcharge

During our test of Municipal Court collections and remittances, we noted three instances where the Court did not assess and collect the required \$25 law enforcement funding surcharge.

For two of the cases, the Town Treasurer/Clerk of Court stated she was unaware this surcharge should be levied on violations not written on a Uniform Traffic Ticket. For the other case, the cash receipt was collected by the former Clerk of Court who terminated employment with the Town prior to the start of our engagement. Town personnel could not explain why the court did not assess the law enforcement surcharge.

Section 14-1-212 (A) 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 fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates or municipal court for misdemeanor traffic offenses or for nontraffic violations."

Criminal Justice Academy Surcharge

During our test of Municipal Court collections and remittances, we noted seventeen instances where the Court did not assess and collect the required \$5 criminal justice academy surcharge.

The Town Treasurer/Clerk of Court stated she was unaware of this requirement.

Proviso 90.5 of the 2010-2011 Appropriations Act, states, "In addition to all other assessments and surcharges, during the current fiscal year, a five dollar surcharge to fund training at the South Carolina Criminal Justice Academy is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in the... municipal court for misdemeanor traffic offenses or for nontraffic violations. No portion of the surcharge may be waived, reduced, or suspended."

Recommendation

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

INSTALLMENT FEE

During our test of Municipal Court collections and remittances, we noted two out of twenty-five instances where the Court assessed and collected the three percent installment fee from individuals who paid the total amount due in one payment after the plea date. In addition, we noted two out of twenty-five instances where the Court did not assess and collect the three percent installment fee from individuals who paid in installments.

The Town Treasurer/Clerk of Court stated the Court's policy is to charge the installment fee to all individuals who agree to a scheduled time payment, whether or not that individual pays in installments. For the two cases where the installment fee was not charged, the Town Treasurer/Clerk of Court stated the former Clerk of Court would have been responsible for assessing the charge.

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...".

We recommend the Court implement procedures to ensure the installment fee is assessed and collected in accordance with State law.

SUBMISSION OF STATE TREASURER'S REVENUE REMITTANCE FORM

During our testing of the Town's State Treasurer Revenue Remittance Forms (STRRF), we noted four out of twelve STRRF were not submitted to the State Treasurer by the fifteenth day of the month as required by State law. The forms were submitted one to thirty-five days late. We also noted three STRRF were not submitted. Out of the three STRRF, one had been prepared by the Town; however, neither the Town nor the State Treasurer could provide us with the State Treasurer's Receipt to document the STRRF had been submitted or received. The Town could not provide us with the other two STRRF. Based on our review of the Town's general ledger, we determined that the Town recorded court fees for one of the months and did not record court revenue during the other month.

The former Clerk of Court terminated employment with the Town in January 2011, which was prior to the start of our engagement and no other Town employee was able to explain why the STRRF were either not submitted or submitted late. Other late submissions occurred because of a misunderstanding by the current Town Treasurer/Clerk of Court. When she began employment with the Town in January 2011, she assumed the accounting firm that prepared the Town's financial statements prepared and submitted the STRRF. When she realized her assumption was not correct she began submitting the STRRF in a timely manner.

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. In addition, the STRRF states, this form "is required by law and must be filed monthly, on or before the 15th, by the municipal or county treasurer, even if there are no collections."

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

ACCOUNTING FOR VICTIM ASSISTANCE FUNDS

During our test of Municipal Court collections and remittances we noted the Town did not properly retain victim services revenue. The funds collected for victim assistance were not deposited into a separate account as required by State law but were pooled with the Town's traffic court account.

Because the Town did not separately report victim assistance revenue on its general ledger, victim assistance beginning and ending balances per the general ledger did not agree to amounts reported on the required schedule of fines, assessments and surcharges included in the Town's fiscal year ended June 30, 2010 audited financial statements.

Town personnel could not explain why the victim assistance revenue was not deposited into a separate account.

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."

We recommend the Town establish and implement policies and procedures to ensure victim assistance revenue is accounted for in accordance with State law. We also recommend the Town establish a separate account for victim assistance activities and transfer the victim assistance funds from the traffic court account to the victim assistance account.

SUPPORTING DOCUMENTATION

During our testing of the Town's State Treasurer Revenue Remittance Forms (STRRF), we noted amounts reported on the July 2010, August 2010 and October 2010 forms did not agree to the Town's general ledger. Town personnel could not explain the differences nor could they provide us with any additional documentation to support the amounts reported on the STRRF.

Also, during our testing of Municipal Court collections and remittances we were unable to agree seven out of twenty-five cash receipts to the Town's court accounting records nor were we able to determine if the receipts were reported on the applicable State Treasurer's Revenue Remittance Form (STRRF). In addition, the Town could not provide us with any support to document if the amounts collected for these seven receipts were properly assessed and allocated in accordance with State law.

The former Clerk of Court terminated employment with the Town prior to the start of our engagement and current town personnel were unable to find the documentation we requested. During our testing we did note that the current Town Treasurer/Clerk of Court prepares and maintains an allocation worksheet to support amounts recorded on the STRRF.

Section 14-1-208 (E)(4) of the 1976 South Carolina Code of Laws, as amended, states, "The clerk of court and municipal treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection in the format determined by the municipal governing body and make those records available for review."

We recommend the Town implement procedures to ensure court accounting records are maintained and readily available for review. We also recommend that all court collections reported and remitted to the State Treasurer be reconciled to accounting records and reviewed for accuracy.

SECTION B – OTHER WEAKNESS

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

COURT DOCKET AVAILABILITY

The Town was unable to provide us with the November 2010 court docket; therefore we did not have a complete population from which to test court collections and remittances. The former Clerk of Court terminated employment with the Town prior to the start of our engagement and the current Town Treasurer/Clerk of Court was not certain why there was no court docket for November 2010 or if court was even held that month. We made inquiries of the Town judge about the missing docket but he did not respond to our request.

South Carolina Court Administration's retention schedule requires disposed criminal and traffic dockets be permanently retained. Also, sound internal controls provide for the maintenance and retention of records that are readily available for review.

We recommend the Town establish and implement policies and procedures to ensure all records are properly maintained and retained in accordance with Court Administration's retention schedule and sound internal controls.

TOWN'S RESPONSE

P.O. Box 536
Summerville, South Carolina 29484-0536
December 14, 2012

Mr. Richard H. Gilbert, Jr., CPA
Deputy State Auditor
1401 Main Street, Suite 1200
Columbia, SC 29201

RE: Town of Lincolnton Audit Report

Dear Mr. Gilbert:

Thank you for providing our preliminary draft copy of the audit report for the Town of Lincolnton Municipal Court for the fiscal year ended June 30, 2011. My review has been completed and I am responding based solely on my understanding of current policies and procedures. We are taking necessary steps to correct our policies and procedures to handle all situations and problems listed herein to include submission of revenue remittance forms, collection of fees and surcharges, accounting for victim assistance funds and paying assessments accordingly.

My review of the report has been completed and the report may be released as far as my authority with the Town of Lincolnton allows. Please note that my engagement with the town is that of a part time nature. I do not have absolute authority outside of the Mayor and Town Council.

I am attaching some comments regarding the matters raised in the accountant's comments. I welcome an opportunity to discuss the matter further. I can be reached at (843) 991-0873.

Sincerely,


Vergil A. Deas

Reply to Accountant Findings

1. Town Code violations are usually brought into court on a separate form established by the Town Of Lincolnville for such violations. Town Code Violations were not put on Uniform Traffic Tickets. It appears that the assessments and surcharges were not assessed to the State due to these matters being town code violations that were non traffic and not on a uniformed traffic ticket. The Clerk thus did not include these reports with uniform traffic ticket report and fees. These cases came about from the Codes Enforcement Officer levying a fine for failure to get permits to clear property or burning leaves without permission or for failure to clean up debris and over growth. In an effort to correct, all fines will be assessed and distributed accordingly regardless of the designation or classification of the fine.
2. The court as a general rule always tells people seeking time payments that there is a three percent surcharge. Obviously our former clerk failed to apply the charge upon people coming into the clerk after the court date to pay their payments. In an effort to correct, we will begin printing a reminder acknowledgement on our time payment forms as a reminder to clerk of court personnel.
3. The late submitting of the STRRF forms will definitely be a thing of the past. The recently retired clerk frequently felt overwhelmed by her many responsibilities from court clerk, to the mayor's assistant, assistant for town council, etc. The clerk also governed expenditures and payroll. The former clerk thus failed to prioritize the filing of these forms. Our new clerk is more expeditious and this will not happen under normal circumstances. We have already implemented procedures for the timely submission of the STRRF form. As for missing reports and one showing a remittance but never received, the extent of my appointment as judge was only on a part-time basis. I never involved myself with the monetary aspect of the court. It was my understanding that all submissions were promptly made to the State.
4. Clearly I will recommend to Council to establish a victim's account in accordance with the law. Moreover, I will ask council to insure that funds are transferred from the traffic court account to the newly established victim account. As a part time employee I do not have any authority to open any account or deposit any funds or distribute them in any manner. Council and the Mayor must handle this function. I was surprised that the Town did not have such an account. It is noteworthy that 97% of our cases are routine traffic cases from speeding so the old thinking by town council may have been that a separate victim fund account was not needed.

5. Court accounting records and supporting documentation are currently being appropriately filed and maintained and are readily available. Back in 2010, the former clerk failed to have any type of accurate filing system despite my requests that they keep records of disposed of tickets, NRVC forms and issuance, etc. I was told by that clerk that they would be putting in place a filing system but nothing took place until Ms. James took over the position.
6. We will recommend that Town of Lincolnville Clerk of Courts seek out training sessions and update information available at all times to keep abreast of the latest changes made in our system. Much consideration needs to be given to the lack of intentional conduct in this matter. It appears that former town clerks have become overwhelmed with the numerous hats and roles they must play and lacked understanding of the intricacies and reporting requirements of court administration. These requirements are even more pronounced when you only deal with such issues once or twice a month amidst numerous other tasks and responsibilities bestowed upon a small town clerk who must wear many varied and different hats.
7. This report will allow us to right our ship and bring our small court system into compliance.

5 copies of this document were published at an estimated printing cost of \$1.60 each, and a total printing cost of \$8.00. Section 1-11-125 of the South Carolina Code of Laws, as amended requires this information on printing costs be added to the document.