

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

**STATE AUDITOR'S REPORT
JUNE 30, 2014**

CONTENTS

	<u>PAGE</u>
I. OFFICE OF THE STATE AUDITOR TRANSMITTAL LETTER	1
II. INDEPENDENT ACCOUNTANT’S REPORT ON APPLYING AGREED-UPON PROCEDURES	2-4
III. ACCOUNTANT’S COMMENTS	5
SECTION A – VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS	6
TIMELY, ACCURATE REPORTING BY THE CLERK OF COURT	7
Adherence to Fine Guidelines	7
Conviction Surcharge	8
DUI Assessments and Surcharges	8
Breathalyzer Fee	9
Local Ordinances	10
Payment Omissions	10
Timely Reporting	11
TIMELY, ACCURATE RECORDING AND REPORTING BY THE TOWN TREASURER	11
Supplementary Schedule	11
Under Reported Amounts	12
SECTION B – STATUS OF PRIOR FINDINGS	13
MUNICIPALITY’S RESPONSE	14

State of South Carolina



Office of the State Auditor

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July 21, 2015

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

The Honorable Robert A. Stanton, Jr., Chief Judge
Ms. Tameka McLain, Town Clerk/Treasurer
Town of McColl
McColl, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the McColl Municipal Court System as of and for the year ended June 30, 2014, 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 black ink, appearing to read "Richard H. Gilbert, Jr.", written in a cursive style.

Richard H. Gilbert, Jr., CPA
Deputy State Auditor

RHGjr/trb

STEVEN L. BLAKE, CPA

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

July 21, 2015

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

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

Ms. Tameka McLain, Town Clerk/Treasurer
Town of McColl
McColl, South Carolina

I have performed the procedures described below, which were agreed to by the Town of McColl Municipal Court, solely to assist you in evaluating the performance of the Town of McColl Municipal Court for the period July 1, 2013 through June 30, 2014, in the areas addressed. The Town of McColl 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 McColl 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 determine 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 determine that the fine, fee, assessment or surcharge was properly allocated 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, and/or assessment charge 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 in accordance with applicable State law.

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My findings as a result of these procedures are presented in Timely, Accurate Reporting by the Clerk of Court 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 determine timely reporting by the municipality.
- I obtained copies of all court remittance forms or equivalents and tested each monthly remittance form to determine that the forms were completed in accordance with instructions and submitted timely in accordance with State law.
- I verified 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, 2013 through June 30, 2014. 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 State Treasurer's Revenue Remittance Forms submitted by the municipality for the twelve months ended December 2011.
- I determined that the municipality's supplemental schedule of fines and assessments contained all the required elements in accordance with state law.

My findings as a result of these procedures are presented in Timely, Accurate Recording and Reporting by the Town Treasurer 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 determine 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 determine 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.

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- 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 bank account 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.

4. 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 March 31, 2007, dated June 7, 2007, to determine if the municipality had taken adequate corrective action.

My findings as a result of these procedures are presented in Section B 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, 2014 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 Municipal Council, Municipal Clerk of Court, Municipal 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 determine 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.

TIMELY, ACCURATE REPORTING BY THE CLERK OF COURT

Adherence to Fine Guidelines

I noted two instances in which the Court did not fine the defendants for Driving Under the Influence, > .16, 1st Offense in accordance with State law. I determined that the Court assessed one individual \$464.15 and the other \$465.85 for these violations.

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 ... 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." It further states "(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 next preceding minimum monetary fine is \$500.

The Clerk of Court stated an incorrect total fine amount was used for the roadside bond amount and the judge used this amount in sentencing.

I noted two instances in which the Court did not fine the defendants for Driving without a License – 1st Offense in accordance with State law. Both defendants were fined \$101.20.

Section 56-1-20. states a "Driver's license required;" and Section 56-1-2160 states "An offense for which no specific penalty is provided by this article must be punished in accordance with Section 56-5-6190." and Section 56-5-6190 states "Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.

I noted one instance in which the Court did not fine a defendant for Driving Under Suspension – not for DUI – 1st in accordance with State law. The defendant was fined \$299.76.

Section 56-1-460(A)(2) of the 1976 South Carolina Code of Laws, as amended, states, "a person ... be punished as follows: (2) A person who drives a motor vehicle on a public highway of this State when the person's license has been suspended or revoked pursuant to the provisions of Section 56-5-2990 or 56-5-2945 must, upon conviction, be punished as follows:(a) for a first offense, fined three hundred dollars or imprisoned for not less than ten nor more than thirty days;"

The Clerk of Court stated that these three errors were due to rounding the total amount assessed to even dollars.

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

Conviction Surcharge

I noted four instances where the conviction surcharge amount was included in the total fine assessed. However, the conviction surcharge was not properly allocated in the software because the person inputting the charges did not specify the violation had a conviction surcharge.

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." This section does not apply to misdemeanor traffic offenses or parking violations.

The Town's court software program treats all tickets as misdemeanor traffic violations unless the user specifies that the violation is something other than a misdemeanor traffic violation (e.g. criminal - conviction surcharge, DUI, etc.). The Clerk of Court stated that the tickets were not properly input into the software system as DUI violations and as a result the violations were treated as misdemeanor traffic violations and the software allocated fines accordingly.

I recommend the Town implement a process to verify the charge is properly input into the system.

DUI Assessments and Surcharges

I noted two instances out of two Driving Under the Influence [DUI] offenses where the Court did not assess and collect the DUI assessments and surcharges.

Section 14-1-211 (A) (2) of the 1976 South Carolina Code of Laws, as amended, states, "In addition to all other assessments and surcharges, a one hundred dollar surcharge is imposed on all convictions pursuant to Section 56-5-2930 and Section 56-5-2933. No portion of the surcharges imposed pursuant to this section may be waived, reduced, or suspended." Section 56-5-2995 further states "(A) In addition to the penalties imposed for a first offense

violation of Section 56-5-2930 or 56-5-2933 in magistrate's or municipal court, an additional assessment of twelve dollars must be added to any punishment imposed which must be remitted to the State Treasurer" And finally Section 56-5-2930 states "(F) 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 Town's court software program treats all tickets as misdemeanor traffic violations unless the user specifies that the violation is something other than a misdemeanor traffic violation (e.g. criminal - conviction surcharge, DUI, etc.). The Clerk of Court stated that the tickets were not properly input into the software system as DUI violations and as a result the violations were treated as misdemeanor traffic violations and the software allocated fines accordingly.

I recommend the Town implement a process to verify the charge is properly input into the system.

Breathalyzer Fee

During my test of Municipal Court collections and remittances, I noted one instance where the Court did not assess the \$25 breathalyzer test fee for DUI cases in which the test was utilized and the individual was subsequently convicted.

Section 56-5-2950 (E) of the 1976 South Carolina Code of Laws, as amended, states, "... 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 Town's court software program treats all tickets as misdemeanor traffic violations unless the user specifies that the violation is something other than a misdemeanor traffic violation (e.g. criminal - conviction surcharge, DUI, etc.). The Clerk of Court stated that the tickets were not properly input into the software system as DUI violations and as a result the violations were treated as misdemeanor traffic violations and the software allocated fines accordingly.

I recommend the Town implement a process to verify the charge is properly input into the system.

Local Ordinances

The judge did not fine two individuals in accordance with the penalties for violations of Town ordinances. The first individual was fined \$272.29 however the ordinance specifies that the fine should be \$300. The second individual was fined \$226.51 however the Town ordinance specifies the individual should have been fined \$200.

South Carolina Code of Laws Section 5-7-30 states "...The municipal governing body may fix fines and penalties for the violation of municipal ordinances and regulations not exceeding five hundred dollars or imprisonment not exceeding thirty days, or both....".

The Clerk of Court explained the judge nolle prossed the original uniform traffic tickets. However, the judge used the original charge's penalty amount listed on the uniform traffic tickets when he adjudicated the new charges from local ordinance summons. In addition, one of the uniform traffic tickets was incorrectly processed as guilty. When the Clerk of Court processed this uniform traffic ticket in the software however, it was listed as nolle prossed and the individual was found guilty of a local ordinance violation.

We recommend the Municipal Court implement procedures to ensure that fines levied by the court adhere to applicable State law or ordinance.

Payment Omissions

Court fine payments made for Non-Resident Violator Compact **[NRVC]** tickets that were not already entered in the court software were excluded from the monthly collections.

Section 14-1-220 of the 1976 South Carolina Code of Laws, as amended, states, "Each...municipal clerk of court ... who receives monies from the cost of court assessments ... shall transmit all these monies to the Office of the State Treasurer." It further states "The municipal clerk of court or county treasurer shall then forward the total sum collected to the State Treasurer ..."

The Clerk of Court stated she was unable to determine how they would be reported because the tickets were not originally entered in the court software system.

In the future, I recommend the Town enter these fines in the court software currently with the relevant information of the original offense included to enable the reporting of these fines. See the Under Reported Amounts finding below.

Timely Reporting

The Clerk of Court did not prepare and submit one of the twelve State Treasurer's Revenue Remittance Forms (STRRF) timely. (A similar finding was noted in the State Auditor's Report for the procedures period ended March 31, 2007 dated June 7, 2007)

Section 14-1-208(A) of the 1976 South Carolina Code of Laws, as amended, states "...This assessment must be paid to the municipal clerk of court and deposited with the city treasurer for remittance to the State Treasurer." 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 clerk stated there are rare times that her workload does not allow her to timely prepare all STRRF.

I recommend the Town implement procedures to ensure STRRF are prepared timely in accordance with State law.

TIMELY, ACCURATE RECORDING AND REPORTING BY THE TOWN TREASURER

Supplementary Schedule

The Town provided its audited financial statements for the fiscal year ended December 31, 2011, 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 opinion. However, the Town's fiscal year 2011 general ledger was not provided 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 December 31, 2011.

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 auditor prepared the schedule and did not leave any reconciliation. The Town has contracted with an independent accounting firm to conduct financial audits for the fiscal years ended December 31, 2012, 2013 and 2014. These engagements are currently in process.

I recommend the Town ensure timely audits are done and all information relevant to financial statements and schedules be retained by the Town.

UNDER REPORTED AMOUNTS

Based on all the tests performed, including the Payment Omissions, Breathalyzer Fee, DUI and Conviction Surcharge findings, I determined the Town underreported the following amounts:

STRRF LINE	DESCRIPTION	
G.	Municipal DUI Assessment - \$12	24.00
H.	Municipal DUI Surcharge - \$100	200.00
I.	Municipal DUI DPS Pullout - \$100	200.00
IA.	DUI/DUAC Breathalyzer Test Conviction Fee \$25	\$ 25.00
K.	Municipal Law Enforcement Surcharge - \$25 per case	75.00
L.	Municipal Court -107.5%	<u>(12.75)</u>
M.	TOTAL REVENUE REMITTED TO STATE TREASURER	<u>511.25</u>
	COUNTY VICTIM FUND	
N.	Assessments - Municipal -107.5%	(1.61)
O.	Surcharges –Municipal	<u>125.00</u>
P.	TOTAL VICTIM MONEY RETAINED BY LOCAL GOVERNMENT	<u>\$ 123.39</u>

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

SECTION B – 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 McColl municipal court system for the twelve months ended March 31, 2007, and dated June 7, 2007. I determined that the Town of McColl has taken adequate corrective action on the deficiencies titled No Court Reporting System, Installment Payment Collection Fee, Lack of Victim Assistance Accounting and Required Supplemental Schedule of Fines and Assessments. This corrective action included purchasing and implementing a Court software system.

I have repeated Timely Filing in Section A of the current report.

MUNICIPALITY'S RESPONSE

The management of the Town of McColl 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.