

TOWN OF NICHOLS MUNICIPAL COURT

NICHOLS, 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 25, 2016

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

The Honorable Danny O. Barker, II, Chief Judge
Ms. Sandee Rogers, Clerk of Court
Town of Nichols Municipal Court
Nichols, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Nichols 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
and
The Honorable Danny O. Barker, II, Chief Judge
Ms. Sandee Rogers, Clerk of Court
Town of Nichols Municipal Court
Nichols, South Carolina

I have performed the procedures described below, which were agreed to by the Town of Nichols Municipal Court, solely to assist you in evaluating the performance of the Town of Nichols Municipal Court for the period July 1, 2014 through June 30, 2015, in the areas addressed. The Town of Nichols 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 Nichols 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 Drug Paraphernalia in the Accountant's comments section of this report.

The Honorable Nikki R. Haley, Governor
and
The Honorable Danny O. Barker, II, Chief Judge
Ms. Sandee Rogers, Clerk of Court
Town of Nichols Municipal Court
May 25, 2016

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 Supplemental 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.

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Town of Nichols 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 amounts (over)/under reported by the municipality by category.

The results of my procedures disclosed that the municipality both over and under reported amounts due to the State and Victim Assistance Fund. My findings as a result of these procedures are presented in Unsubmitted Amounts and 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 Nichols Council, Town of Nichols Clerk of Court, Town of Nichols 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

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

I noted the following instances in which the Court did not fine the defendant in accordance with State law:

No Registration

The Court fined one individual \$100.24 for No Proof of Vehicle Registration.

Section 56-3-1250 of the 1976 South Carolina Code of Laws, as amended, states, "Every registration card must at all times be carried by the person driving or in control of the vehicle" and the penalty in 56-3-2520 states "shall be punished by a fine of not more than one hundred dollars."

Speeding

The Court fined one individual \$74.94 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;"

The Clerk of Court/treasurer stated the registration error was a rounding error. The speeding error appears to be a data input error by the data entry clerk.

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 one instance where the Town did not assess and collect the three percent installment fee from an individual who paid in installments.

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/treasurer stated that the Court rarely accepts installment payments but on the occasion they do, the Town does not require the three percent installment fee to be assessed.

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

DRUG PARAPHERNALIA

The Town has an ordinance regarding Possession of Drug Paraphernalia which references South Carolina Code of Laws Section 44-53-391. This ordinance appears to match the State law. The State law is civil and therefore not subject to assessments and surcharges. However, the Town has assessed what appears to be a civil ordinance fine with assessments and surcharges including the drug surcharge. Thus, when assessed and these assessments and surcharges are added to the initial fine, the total fine equals \$700 or \$1,092 rather than the \$500 State civil total fine.

Section 44-53-391 (C) of the 1976 South Carolina Code of Laws, as amended, states, “Any person found guilty of violating the provisions of this section shall be subject to a civil fine of not more than five hundred dollars...” Town ordinance 14.513 states “shall be sentenced to no more than \$500.00”.

The Clerk of Court/treasurer stated the town attorney suggested that the Town Council clarify further their intent that this be a civil fine. She further stated that the data entry clerk who entered the fine within the court software set up assessments and surcharges incorrectly.

I recommend the Town Council further clarify their intent or retire the ordinance altogether and enforce the State law. See Incorrectly Reported Amounts finding below for the financial impact of assessing a civil fine with assessments and surcharges.

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 STRRF, I noted eight of the STRRF were not submitted to the State Treasurer timely. They were submitted five to 155 days late. Four of the STRRF were not submitted. See Unsubmitted Amounts finding below.

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 of Court/treasurer stated the Town had a personnel situation which put undue financial burden on the Town and its police department. This burden created a cash shortage which prevented timely filing and remittance of funds due to the State as the State will not

accept submission without payment. The Clerk of Court/treasurer further stated the Town was proactive and corresponded with the State Treasurer to inform the State of the situation.

I recommend the Town continue being proactive and correspond with the State Treasurer and work towards bringing the Town into compliance with State law.

SUPPLEMENTAL SCHEDULE

During my testing of the schedule of court fines, assessments and surcharges included in the Town's financial statements for the year ended June 30, 2015, I noted the auditors' opinion was not an "in-relation-to" opinion. In fact, no form of assurance was given on the supplementary schedule.

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 Clerk of Court/treasurer stated that the independent auditor would be made aware of the finding.

I recommend the Town inform their auditor of the requirement to provide an "in-relation-to" opinion on its supplementary schedule in accordance with State law.

VICTIM ASSISTANCE FUNDS

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

- The Town did not timely deposit into a separate account funds collected for victim assistance as required by State law.
- The June 30, 2015 schedule of fines and assessments had a victim assistance carry forward balance of \$137,243 but the victim assistance bank balance was \$141,185.
- The Town has an agreement with the State Office of Victims Assistance [**SOVA**] whereupon they charge 7.5% of a salary to the victim assistance fund. When I tested this calculation the Town had overcharged the victim assistance fund \$22.68.

Section 14-1-208 (B) of the 1976 South Carolina Code of Laws, as Amended, states, "The city treasurer must remit 12 percent of the revenue generated by the assessment imposed in subsection (A) to the municipality to be used for the purposes set forth in subsection (D) and 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.” 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 Clerk of Court/treasurer stated the Town was audited by the State Office of Victim Assistance [**SOVA**] in February 2016 and all these issues were settled.

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

UNSUBMITTED AMOUNTS

As reported in the finding Timely Submission of State Treasurer’s Revenue Remittance Form, the Town did not submit four STRRF’s to the State Treasurer. I scanned and summarized them. Based on the tests performed, I determined the Town has not reported the following amounts:

STRRF LINE	DESCRIPTION	
F.	Municipal DUS DPS Pullout - \$100	\$ 200.00
J.	Municipal Drug Surcharge \$150	5,350.00
K.	Municipal Law Enforcement Surcharge - \$25 per case	22,235.48
KA.	Municipal CJA Surcharge - \$5	4,447.09
L.	Municipal Court -107.5%	<u>72,956.34</u>
M.	TOTAL REVENUE YET TO REMIT TO STATE TREASURER	<u><u>105,188.91</u></u>

I recommend the Town submit these amounts as soon as possible.

INCORRECTLY REPORTED AMOUNTS

As reported in the finding Drug Paraphernalia above, the Town has assessed a civil law with assessments and surcharges. The incorrectly reported and overpaid amounts as a result of this are as follows:

STRRF LINE	DESCRIPTION	
J.	Municipal Drug Surcharge - \$150	(15,054.95)
K.	Municipal Law Enforcement Surcharge - \$25 per case	(2,509.16)
KA.	Municipal CJA Surcharge - \$5	(501.83)
L.	Municipal -107.5%	<u>(33,179.61)</u>
M.	TOTAL REVENUE OVERPAID TO STATE TREASURER	<u>(51,245.55)</u>
	RETAINED BY TOWN FOR VICTIM SERVICES	
N.	Assessments - Municipal -107.5%	(4,167.99)
O.	Surcharges –Municipal - \$25	<u>(2,275.00)</u>
P.	TOTAL OVER RETAINED FOR VICTIM SERVICES	\$ <u>(6,442.99)</u>

I recommend the Town correspond with the State Treasurer to determine the correct course of action.

MUNICIPALITY'S RESPONSE

TOWN OF NICHOLS

OFFICE OF THE
MAYOR

Nichols, South Carolina 29581
Phone: (843) 526-2193
Fax: (843) 526-2743

514 W Mullins St
Nichols, SC 29581

7/21/2016

State Audit Municipal Response

The Town of Nichols has received and reviewed the state auditor's report dated June 30, 2015. After a thorough review our response is as follows:

- Regarding the adherence to fine guidelines, we are always meticulous to adhere to the guidelines of the State regarding fines. This doesn't mean that there will not be the occasional scribers error which we try fervently to avoid. This said we will work to implement measures to insure this does not happen in the future.
- Regarding the 3% installment payment fee, we rarely allow installment payments. The one instance noted by the auditor was the only installment payment allowed and we were unaware that there needed to be a 3% fee. This will be corrected in the future if other installment payments are allowed.
- Regarding the Nichols Drug Paraphernalia Town Ordinance, after discussion and review it has been decided that the ordinance will be retired in its entirety.
- Regarding the STRRF's, the Town of Nichols has been diligent in contacting and seeing that the State Treasurer was made aware of the delinquency. There were issues beyond our control – the “perfect storm” so to speak - that led to this problem and the State Treasurer has been advised of the problem in its entirety. We are working hard get this paid back and have been current since the problem took place.
- Regarding the Town auditor's “in-relation-to” opinion, they have been sent a copy of this report and are reviewing to ensure compliance in the future.
- Regarding the Victim's Assistance Fund, we are diligently and continually in contact with Dr. Barker and the SOVA office to maintain compliance. Our numbers are spot on with those of the SOVA office.
- Regarding the overpayments made to the State Treasurer, we will be contacting the State Treasurer's office to determine a course of action for this finding.

Overall, we are pleased to know that the majority of these issues are small and correctable and we are in the process of making these issues compliant.

Thank You!

Sandee S Rogers, Clerk
Town of Nichols