

TOWN OF TIMMONSVILLE MUNICIPAL COURT

TIMMONSVILLE, SOUTH CAROLINA

STATE AUDITOR'S REPORT

**FOR THE PERIOD FEBRUARY 1, 2010
THROUGH MAY 31, 2011**

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State of South Carolina



Office of the State Auditor

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INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

August 3, 2012

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

The Honorable Darrick Jackson, Mayor
Town of Timmons ville
Timmons ville, South Carolina

Ms. Mary Bines, Interim Town Administrator
Town of Timmons ville
Timmons ville, South Carolina

We have performed the procedures described below, which were agreed to by the Town of Timmons ville, solely to assist you in evaluating the performance of the Town of Timmons ville Municipal Court for the period February 1, 2010 through May 31, 2011, in the areas addressed. The Town of Timmons ville and the Town of Timmons ville 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 obtained the Town of Timmons ville's reconstructed court dockets for all cases for the period February 1, 2010 through May 31, 2011, from the Town of Timmons ville Magistrate Court Clerk. 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 the Court's cash receipt records.

Our findings as a result of these procedures are presented in Adherence to Fine Guidelines, Conviction Surcharge, and Retaining Court Revenue Designated for Victim Assistance in the Accountant's Comments section of this report.

The Honorable Nikki R. Haley, Governor
and
The Honorable Darrick Jackson, Mayor
Ms. Mary Bines, Interim Town Administrator
Town of Timmonsville
August 3, 2012

2. **Town Treasurer**

- We obtained copies of all State Treasurer's Revenue Remittance Forms submitted by the Town for the period February 1, 2010 through May 31, 2011. We agreed the amounts reported on the State Treasurer's Revenue Remittance Forms to the reconstructed court dockets and the cash receipt books.
- 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.

Our finding as a result of these procedures is presented in Timely Submission of State Treasurer's Revenue Remittance Form in the Accountant's Comments section of this report.

3. **Victim Assistance**

- We made inquiries and performed substantive procedures to determine that any funds retained by the Town for victim assistance were accounted for in a separate account.
- We tested victim assistance expenditures to ensure that the Town expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.
- 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 victim assistance account bank statements to determine if victim assistance funds were retained in accordance with State law.

Our findings as a result of these procedures are presented in Accounting for Victim Assistance Funds, Supplementary Schedule and Retaining Court Revenue Designated for Victim Assistance in the Accountant's Comments section of this report.

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 sixteen months ended May 31, 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.

The Honorable Nikki R. Haley, Governor
and
The Honorable Darrick Jackson, Mayor
Ms. Mary Bines, Interim Town Administrator
Town of Timmons ville
August 3, 2012

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 Timmons ville Town Council, Town of Timmons ville Mayor, Town of Timmons ville Interim Town Administrator, 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.

ADHERENCE TO FINE GUIDELINES

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

- 1) Four individuals were fined \$25.30 for speeding, 10 mph or less over the speed 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: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars."
- 2) Two individuals were fined \$25.30 for speeding, 15 mph over but less than 25 mph over the speed 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: (3) in excess of fifteen miles an hour but less than twenty-five miles an hour above the posted limit by a fine of not less than fifty dollars nor more than seventy-five dollars."
- 3) An individual was fined \$113.25 for an open container. Section 61-4-110 of the 1976 South Carolina Code of Laws, as amended, states, "It is unlawful for a person to have in his possession, except in the trunk or luggage compartment, beer or wine in an open container in a motor vehicle of any kind while located upon the public highways or highway rights of way of this State. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days."

The Town's Municipal Judge resigned prior to the start of our engagement. Town personnel could not explain why the fines did not comply with applicable State law.

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

CONVICTION 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 conviction surcharge.

The Town Clerk of Court terminated employment with the Town prior to the start of our engagement. Town personnel could not explain why the court did not assess the 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.

We recommend the Municipal Court implement procedures to ensure the conviction surcharge is assessed and collected in accordance with State law.

TIMELY SUBMISSION OF STATE TREASURER'S REVENUE REMITTANCE FORM

During our testing of the Town's State Treasurer's Revenue Remittance Forms (STRRF), we noted sixteen out of sixteen STRRF were not submitted to the State Treasurer by the fifteenth day of the month as required by State law. The forms were submitted from approximately eleven to twenty-three months late. The Town began remitting overdue STRRF in February 2012. The Town remitted the sixteen past due forms by August 3, 2012. The Town is currently working to complete STRRF for the period June 2011 through May 2012.

The Town Treasurer terminated employment with the Town prior to the start of our engagement and no other Town employee was able to explain why the STRRF were not submitted timely.

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.

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 testing of victim assistance expenditures, we noted the Town did not maintain adequate documentation to support an expenditure of \$249 charged to the victim assistance fund. As a result we were unable to determine if the expenditure was an allowable victim assistance expenditure.

The Town Treasurer and Clerk of Court terminated employment with the Town prior to the start of our engagement and no other Town employee was able to provide adequate documentation to support the expenditure.

Section 14-1-208(D) of the 1976 South Carolina Code of Laws, as amended, states, "The revenue retained by the county under subsection (B) must be used for the provision of services for the victims of crime including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts." In addition, the South Carolina Court Administration Memorandum, Attachment L, dated June 24, 2010, and the South Carolina Victim Service Coordinating Council, Approved Guide for Expenditures of Monies Collected for Crime Victim Service in Municipalities and Counties, effective January 2010, set forth guidelines for expenditures of monies collected for crime victim services.

We recommend the Town reimburse the victim assistance funds for the expenditure that was not adequately supported by source documentation. We also recommend the Town establish and implement policies and procedures to ensure victim assistance revenue is used only for properly documented expenditures in accordance with State law.

SUPPLEMENTARY SCHEDULE

The Town did not prepare financial statements for fiscal year ended February 28, 2011, nor did the Town provide for an independent audit of the financial records and transactions for this period. As a result, the Town had not prepared a supplementary schedule of fines and assessments as required by State law. The Town did have a limited scope audit performed for the fiscal year ended February 28, 2010; however, again a supplementary schedule of fines and assessments was not prepared because the Town could not produce the necessary information to prepare the schedule.

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...". In addition, Section 14-1-208(E) states, "To ensure that fines and assessments imposed pursuant to this section and Section 14-1-209(A) are properly collected...the annual independent external audit required to be performed for each municipality ...must include...a supplementary schedule detailing all fines and assessments collected...".

We recommend the Town implement procedures to ensure annual audited financial statements are prepared in accordance with State law. We also recommend the Town implement procedures to ensure the supplementary schedule of fines and assessments is included in its annual audited financial statements and contains all required elements in accordance with State law.

RETAINING COURT REVENUE DESIGNATED FOR VICTIM ASSISTANCE

During our test of court collections and remittances, we noted the Town did not properly retain victim services revenue for 19 out of 25 cases tested. Our review of the victim assistance account bank statements revealed that the Town began depositing revenue into the victim assistance account in February 2012. As of the end of our fieldwork (August 3, 2012) the Town still owed the victim assistance account \$431.

The Town Treasurer and Clerk of Court terminated employment with the Town prior to the start of our engagement and no other Town employee could explain why the revenue was not deposited in a separate account in a timely manner.

Section 14-1-208(D) of the 1976 South Carolina Code of Laws, as amended, states, "The revenue retained by the municipality under subsection (B) must be used for the provision of services for the victims of crime including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16."

We recommend the Town retain victim assistance funds in accordance with State law. We also recommend the Town transfer \$431 to the victim assistance account.

TOWN'S RESPONSE



Town of Timmonsville

P.O. Box 447 • Timmonsville, SC 29161

Office (843) 346-7942

Darrick Jackson
MAYOR

October 5, 2012

Richard H. Gilbert Jr.
Office of the State Auditor
1401 Main Street, Suite 1200
Columbia, SC 29201

Dear Mr. Gilbert Jr.

Our review of the copy of the accounting records of the Town of Timmonsville Municipal Court for the period February 1, 2010 and May 31, 2011 report is complete and authorize release of the report.

Sincerely,

Mary Bines
Interim Administrator

5 copies of this document were published at an estimated printing cost of \$1.46 each, and a total printing cost of \$7.30. Section 1-11-125 of the South Carolina Code of Laws, as amended requires this information on printing costs be added to the document.