

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

STATE AUDITOR'S REPORT

JUNE 30, 2016

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**South Carolina
Office of the State Auditor**

**George L. Kennedy, III, CPA
State Auditor**

June 16, 2017

The Honorable Charles L. Smith, Chief Judge
Town of Yemassee Municipal Court
Yemassee, South Carolina

Mr. Billy Sanford, Town Clerk of Court
Ms. Misty Reardon Moorer, Treasurer
Town of Yemassee
Yemassee, South Carolina

This report resulting from the application of agreed-upon procedures to the accounting records of the Town of Yemassee Municipal Court System as of and for the year ended June 30, 2016, 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/cwc

STEVEN L. BLAKE, CPA

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

June 16, 2017

The Honorable Charles L. Smith, Chief Judge
Town of Yemassee Municipal Court
Yemassee, South Carolina

Mr. Billy Sanford, Town Clerk of Court
Ms. Misty Reardon Moorer, Treasurer
Town of Yemassee
Yemassee, South Carolina

I have performed the procedures described below, which were agreed to by the Town of Yemassee Municipal Court, solely to assist you in evaluating the performance of the Town of Yemassee Municipal Court for the period July 1, 2015 through June 30, 2016, in the areas addressed. The Town of Yemassee 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 Yemassee 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 or equivalents from the Clerk of Court. I judgmentally selected twenty-five cases from the dockets and recalculated the fine, fee, assessment and surcharge calculation to determine 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 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 Timely, Accurate Reporting by the Clerk of Court in the Accountant's Comments section of this report.

2. Municipal Treasurer

The Honorable Charles L. Smith, Chief Judge
Mr. Billy Sanford, Town Clerk
Ms. Misty Reardon Moorer, Treasurer
Town of Yemassee
June 16, 2017

- I gained an understanding of the policies and procedures established by the municipal treasurer to determine timely reporting by the Town.
- 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 determined that amounts reported on the monthly court remittance forms or equivalents agreed to the Town's support.
- I scanned the Town's support to determine if the Town had misclassified fine, fee, assessment, and surcharge receipts.
- I obtained copies of all State Treasurer's Revenue Remittance Forms for the period July 1, 2015 through June 30, 2016. 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 Town on its supplemental schedule of fines and assessments agreed to the Town's support.
- I determined that the Town reported court financial activity on its supplemental schedule of fines and assessments in accordance with applicable State law.

There were no findings as a result of these procedures.

3. Victim Assistance

- I gained an understanding of the policies and procedures established by the Town to determine proper accounting for victim assistance funds.
- I made inquiries and performed substantive procedures to determine that any funds retained by the Town for victim assistance were deposited into a separate account.
- I tested selected expenditures to determine that the Town expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.
- I determined that the Town reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with applicable State law.
- I determined that the amounts reported by the Town on its supplemental schedule of fines and assessments applicable to the Victim Assistance fund agreed to the Town's general ledger or subsidiary ledgers.
- I inspected the Town'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.

The Honorable Charles L. Smith, Chief Judge
Mr. Billy Sanford, Town Clerk
Ms. Misty Reardon Moorer, Treasurer
Town of Yemassee
June 16, 2017

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, 2016 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 Chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, members of the Town of Yemassee Council, Town of Yemassee Clerk of Court, Town of Yemassee 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

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 or local ordinance:

Driving Under the Influence [DUI]

The Court fined one individual \$372.49 for Driving Under the Influence blood alcohol less than .10, first offense.

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, by a fine of four hundred dollars..."

The Clerk of Court stated the roadside bond amount written on the ticket was more than the lawful amount. The judge did not correct the error during sentencing.

I recommend the Town implement procedures to train officers on the correct roadside bond amounts and the judge on minimum fine amounts to ensure defendants are sentenced in accordance with State law.

Simple Possession

The Court fined one individual \$227.95 and another \$248.19 for Possession of 28g (1 oz) or less of Marijuana or 10g or less of Hash, 1st offense.

Section 44-53-370(d)(4) of the 1976 South Carolina Code of Laws, as amended, states, "A person who violates this subsection with respect to twenty-eight grams or one ounce or less of marijuana or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two hundred dollars."

The Clerk of Court stated the roadside bond amount written on the ticket was more than the lawful amount. The judge did not correct the error during sentencing.

I recommend the Town implement procedures to train officers on the correct roadside bond amounts and the judge on minimum fine amounts to ensure defendants are sentenced in accordance with State law.

No Proof of Vehicle Registration

The Court fined two individuals \$100.24 each 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 Section 56-3-2520 states “shall be punished by a fine of not more than one hundred dollars.”

The Clerk of Court stated the roadside bond amount written on the ticket was rounded which caused the fine amount to be more than the lawful amount. The judge did not correct the rounding error during sentencing.

Speeding

The Court fined one individual \$25.06 and one individual \$33.73 for speeding in excess of the above posted limit but not in excess of ten miles an hour.

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; . . .”

The Clerk of Court stated the roadside bond amount written on the ticket was rounded which caused the fine amount to be more than the lawful amount. The Clerk further stated the other incidence was the roadside bond amount written on the ticket was more than the lawful amount. The judge did not correct either of the errors during sentencing.

I recommend the Town implement procedures to train officers on the correct roadside bond amounts and the judge on minimum fine amounts to ensure defendants are sentenced in accordance with State law.

Unlawful Passing

One individual was fined \$226.51 for Unlawful Passing.

Section 56-5-6190 of the 1976 South Carolina Code of Laws, as amended, states, “Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter ... shall be punished by a fine of not more than one hundred dollars”

The Clerk of Court stated the roadside bond amount written on the ticket was more than the lawful amount. The judge did not correct the error during sentencing.

I recommend the Court implement procedures to ensure the fines are in accordance with State law.

Minor in Possession of Beer/Wine

One individual was fined \$200.96 for Minor in Possession of Beer/Wine.

Section 63-19-2440 of the 1976 South Carolina Code of Laws, as amended, states, "(A) It is unlawful for a person under the age of twenty-one to purchase, attempt to purchase, consume, or knowingly possess beer, ale, porter, wine, or other similar malt or fermented beverage... A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than two hundred dollars . . ."

The Clerk of Court stated the roadside bond amount written on the ticket was more than the lawful amount. The judge did not correct the error during sentencing.

I recommend the Town implement procedures to ensure defendants are sentenced in accordance with State law.

Driving Under Suspension

One individual was fined \$199.76 for Driving Under Suspension, 1st Offense.

Section 56-1-460(A)(1) of the 1976 South Carolina Code of Laws, as amended, states, "a person...be punished as follows: (a) for a first offense, fined three hundred dollars or imprisoned for up to thirty days, or both;"

The Clerk of Court stated the roadside bond amount written on the ticket was rounded which caused the fine amount to be more than the lawful amount. The judge did not correct the rounding error during sentencing.

I recommend the Town implement procedures to ensure defendants are sentenced in accordance with State law.

Local Ordinance

One individual was fined \$214.46 for a local ordinance violation. I could not determine if this fine amount adhered to any local ordinance as the reference to the ordinance on the ticket was incomplete. Also, this reference was incompatible with any municipal code book referencing system the Town has.

The Clerk of Court stated the Town will take steps to train officers in the correct use of local ordinance referencing systems.

I recommend the Town implement procedures to ensure defendants are sentenced in accordance with local law.

Installment Payments

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 individuals who paid the total amount due in installments after the court date.

Section 14-1-209 of the 1976 South Carolina Code of Laws, as amended, provides guidance when the fine and assessment are paid in installments. The Court Administration Fee Memorandum dated July 5, 2015, states, "The intent of Section 14-1-209(C) is that each installment payment be allocated on a pro rata basis to each applicable fine, assessment, and surcharge." and 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 Town's policy was to charge the three percent on late payments, however, the proper code was not entered upon data entry.

I recommend the Municipal Court implement procedures to ensure that the three percent is assessed on installment payments in accordance with State law.

Retention of Court Records

During my testing of the Town's State Treasurer's Revenue Remittance Forms (STRRF), Town personnel could not provide me with the original uniform traffic ticket for several cases to determine the cases were sentenced in accordance with State law. Furthermore, the charge description on the electronic system version of the ticket disagreed with the system description of the charge.

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." In addition, the Summary Court Bench Book, Memoranda 1996-03, sets forth retention guidelines for various court documents.

The Town Clerk/Treasurer stated the former Town Clerk/Treasurer did not properly maintain all records. He further stated that the system codes for charge descriptions had not been maintained on a current basis. He has had the software updated recently and corrections to the retention of documents have been made.

I recommend the Town implement procedures to ensure court accounting records are current and that all court records are retained in accordance with Court Administration's retention schedule.

Timely Processing of Fine Payments

During my testing of the Town's ticket processing I noted receipts dated as much as twelve months prior to the procedures period being processed during the procedures period.

Section 14-25-85 of the 1976 South Carolina Code of Laws, as amended, states, "All fines and penalties collected by the municipal court shall be forthwith turned over by the clerk to the treasurer of the municipality for which such court is held."

The Clerk of Court stated that upon arrival as the new clerk, he noticed several unprocessed Uniform Traffic Tickets on the former clerk's desk. He began processing them forthwith.

I recommend the Town implement procedures whereby the Town Treasurer monitors court collections to determine that those collections are processed timely in accordance with State law.

VICTIM ASSISTANCE FUNDS

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

- The Town has established a separate bank and general ledger account for Victim Assistance funds as required by State law. However, the bank account reconciled balance is \$790 less than the reported ending Victim Assistance cash reported in the supplementary schedule as the ending fund balance.
- The Town's victim advocate salary and other expenses had been reimbursed for the procedures period subsequent to year end. However, the Town has also received a Victims of Crime Act grant from the South Carolina Department of Public Safety which effectively covers the same expenses. In fact, these same expenses were used as the basis for two drawdowns of these grant funds. The Town Treasurer has not reimbursed the Town from these grant funds as of the fieldwork date because these expenses have already been reimbursed to the Town from the Victim Assistance fund. The Town Treasurer is awaiting a determination if this is acceptable to use these same expenses to be reimbursed twice.

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.” Also Section 14-1-208(D) states “All unused funds must be carried forward from year to year.”

The Town Administrator stated the Town would obtain an accurate accounting as soon as possible for the aggregate fund balance.

I recommend the Town establish and implement policies and procedures to ensure Victim Assistance revenue is accounted for and deposited timely in accordance with State law and that Victim Assistance expenses be properly accounted for and reimbursed. The Town should also determine the aggregate fund balance for Victim Assistance.

TOWN'S RESPONSE



TOWN OF YEMASSEE

101 Town Circle P.O. Box 577

Yemassee, SC 29945

1-843-589-2565 Telephone

1-843-589-4305 Fax

Home of the Annual Shrimp Festival



July 14, 2017

The Town of Yemassee has reviewed the State Audit Report for June 30th 2017. After reviewing the State Audit Report the Town of Yemassee agrees with the findings. Some of the findings are due to staff vacancies/turnovers and all findings have already been corrected or are in the process of being corrected.

Misty Reardon

Town Clerk