

**ABBEVILLE COUNTY CIRCUIT,
PROBATE AND FAMILY COURT SYSTEMS**

ABBEVILLE, SOUTH CAROLINA

STATE AUDITOR'S REPORT

JUNE 30, 2014

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**SAO
Transmittal
Letter**

State of South Carolina



Office of the State Auditor

1401 MAIN STREET, SUITE 1200
COLUMBIA, S.C. 29201

RICHARD H. GILBERT, JR., CPA
DEPUTY STATE AUDITOR

(803) 253-4160
FAX (803) 343-0723

February 16, 2015

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

The Honorable Emily T. McMahan, Clerk of Court
The Honorable Ray W. Peck, Treasurer
Abbeville County
Abbeville, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Abbeville County Circuit, Probate and Family Court Systems 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/cwc

STEVEN L. BLAKE, CPA

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

February 16, 2015

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

The Honorable Emily Y. McMahan, Clerk of Court
Abbeville County Circuit and Family Court System
Abbeville, South Carolina

The Honorable Ray W. Peck, Treasurer
Abbeville County
Abbeville, South Carolina

I have performed the procedures described below, which were agreed to by the County of Abbeville and the Abbeville County Circuit, Probate and Family Courts, solely to assist you in evaluating the performance of the Abbeville County Circuit, Probate and Family Court Systems for the fiscal year ended June 30, 2014, in the areas addressed. The County of Abbeville and the Abbeville County Circuit, Probate and Family Courts 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 Office of the State Auditor and the Abbeville County Circuit, Probate and Family Court Systems. 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 proper accounting for all fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- I obtained the General Sessions' beginning and ending indictment numbers for all cases for the period under review from the Clerk of Court. I randomly selected twenty-five cases 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. I also determined that the fine, fee, assessment and/or surcharge adhered to State law and to the South Carolina Court Administration fee memoranda.

The Honorable Nikki R. Haley, Governor
and
The Honorable Emily Y. McMahan, Clerk of Court
The Honorable Ray W. Peck, Treasurer, Abbeville County
February 16, 2015

- I obtained the population of case numbers for all new cases filed in the Court of Common Pleas during the period under review from the Clerk of Court. I randomly selected twenty-five case numbers to determine that filing and motion fees adhered to State law and the Clerk of Court Manual.
- I obtained the population of case numbers for all new cases filed in Family Court during the period under review from the Clerk of Court. I randomly selected twenty-five cases to determine that filing fees, motion fees, support collection fees, and fines adhered to State law and the Clerk of Court Manual.
- I tested twenty-five randomly selected, recorded court receipt transactions in each court to determine that the receipts were remitted in a timely manner to the County Treasurer in accordance with State law.
- I agreed amounts reported on all monthly court remittance reports to the Court's cash receipts ledger.

My findings as a result of these procedures are presented in Adherence to Fine Guidelines and Assessment and Collection of Fees in the Accountant's Comments section of this report.

2. Probate Judge

- I gained an understanding of the policies and procedures established by the Probate Court to ensure proper accounting for all domestic violence fees.
- I obtained the population of marriage license numbers for all new marriage licenses issued by the Probate Court during the period under review from the Probate Judge. I tested all licenses to determine that the domestic violence fee included in the marriage license fee adhered to State law.

There were no findings as a result of these procedures.

The Honorable Nikki R. Haley, Governor
and
The Honorable Emily Y. McMahan, Clerk of Court
The Honorable Ray W. Peck, Treasurer, Abbeville County
February 16, 2015

3. County Treasurer

- I gained an understanding of the policies and procedures established by the County to ensure proper accounting for court fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- I obtained copies of all State Treasurer's Revenue Remittance Forms submitted by the County which reported court generated monies for the fiscal year ended June 30, 2014. I agreed the line item amounts reported on the State Treasurer's Revenue Remittance Forms to the monthly court remittance reports, general ledger, and to the State Treasurer's receipts.
- I determined if the State Treasurer's Revenue Remittance Forms were submitted in a timely manner to the State Treasurer in accordance with State law.
- I verified that the amounts reported by the County on its supplementary schedule of fines and assessments for the fiscal year ended June 30, 2013 agreed to the State Treasurer's Revenue Remittance Forms and to the County's general ledger.

My findings as a result of these procedures are presented in Timely Submission of State Treasurer's Revenue Remittance Form and Supplementary Schedule in the Accountant's Comments section of this report.

4. Victim Assistance

- I gained an understanding of the policies and procedures established by the County to ensure proper accounting for victim assistance funds.
- I made inquiries and performed substantive procedures to determine that funds retained by the County for victim assistance were accounted for in a separate account.
- I tested seven judgmentally selected expenditures to ensure that the County expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.
- I determined if the County reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with State law.
- I inspected the County'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.

My finding as a result of these procedures is presented in Supplementary Schedule in the Accountant's Comments section of this report.

The Honorable Nikki R. Haley, Governor
and
The Honorable Emily Y. McMahan, Clerk of Court
The Honorable Ray W. Peck, Treasurer, Abbeville County
February 16, 2015

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 the county 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, 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 Abbeville County Council, Abbeville County Clerk of Court, Abbeville County Treasurer, Abbeville County Probate Judge, 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

Mandatory DUI Sentence

During my test of General Sessions Court collections and remittances, I noted one instance where the Court did not assess the mandatory sentence in a Felony DUI, death results case. The Court sentenced the defendant to 20 years in prison reduced to seven years with five years' probation and no fine.

Section 56-5-2945(A) of the 1976 South Carolina Code of Laws, as amended, states, "(A) A person who, while under the influence of alcohol, ... drives a motor vehicle and when driving a motor vehicle does any act ... which act ...proximately causes ... death ..., is guilty of the offense of felony driving under the influence, and, upon conviction, must be punished: (2) by a mandatory fine of not less than ten thousand one hundred dollars nor more than twenty-five thousand one hundred dollars and mandatory imprisonment for not less than one year nor more than twenty-five years when death results." Section 2945(A) further states "A part of the mandatory sentences required to be imposed by this section must not be suspended, and probation must not be granted for any portion."

The clerk could not explain why the judge did not adhere to Section 56-5-2945(A) sentencing guidelines.

I recommend the Court implement procedures to ensure that fines levied adhere to State law.

ASSESSMENT AND COLLECTION OF FEES

Public Defender Application Fee

During my test of General Sessions Court collections and remittances, I noted fourteen instances where the Court did not assess and/or collect the \$40 public defender application fee from defendants that applied for a public defender.

Section 17-3-30(B) of the 1976 South Carolina Code of Laws, as amended, states, "A forty dollar application fee for public defender services must be collected from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the clerk of court or other appropriate official for a waiver or reduction in the application fee. If the clerk or other appropriate official determines that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial

judge upon sentencing and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation.” Section 17-3-45(B) of the 1976 South Carolina Code of Laws, as amended, further states that the application fee must be paid “by a time payment method if probation is not granted or appropriate.”

The Clerk stated the fee was not collected for these cases because the defendant was in jail at the time the application was made. The clerk could not provide documentation to support the amount waived was reported to the trial judge during sentencing.

I recommend the Court implement procedures to ensure fees are properly assessed and collected in accordance with State law.

TIMELY SUBMISSION OF STATE TREASURER’S REVENUE REMITTANCE FORM

During my testing of the County’s State Treasurer’s Revenue Remittance Forms (STRRF), I noted twelve out of twelve STRRF were not submitted to the State Treasurer by the fifteenth day of the month as required by State law. The County submitted the forms from two to twenty-one days late.

Section 14-1-206(B) of the 1976 South Carolina Code of Laws, as amended, requires the County 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 County Treasurer stated he believed the submission deadline was the 20th of the month instead of the 15th.

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

SUPPLEMENTARY SCHEDULE

During my testing of the schedule of court fines, assessments and surcharges, I noted the County did not report how victims' services funds were expended nor did it report any victim services' fund balances carried forward, as required by State law. I also noted the auditors' opinion was a qualified opinion; no form of assurance was given on the supplementary schedule because the auditors could not satisfy themselves with respect to the monies collected and submitted.

Section 14-1-206(E)(1) of the 1976 South Carolina Code of Laws, as amended, states, "The supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the court of general sessions; (b) all assessments collected by the clerk of court for the court of general sessions; (c) the amount of fines retained by the county treasurer; (d) the amount of assessments retained by the county treasurer; (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward."

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 County finance officer stated he did not know why this occurred. The Victims Assistance fund was audited and the numbers were available for an in-relation-to opinion.

I recommend the County develop and implement procedures to ensure that amounts reported on the supplementary schedule agree and/or reconcile to the County's general ledger and subsidiary ledgers. The County should also develop and implement procedures to ensure that the schedule is prepared in accordance with State law. Finally, the County should ensure that the independent auditor provides an in-relation-to opinion on the supplementary schedule.

COUNTY'S RESPONSE

Emily Y. McMahan
ABBEVILLE COUNTY CLERK OF COURT
POST OFFICE BOX 99
ABBEVILLE, SOUTH CAROLINA 29620
PHONE: (864) 366-5312 EXT. 55
FAX: (864) 366-9188

To: Steve Blake, CPA, CFE, CICA
From: Emily Y. McMahan, Clerk of Court
Date: March 12, 2015

Re: STATE AUDITOR'S REPORT
JUNE 30, 2014

The Clerk of Court has no control on the sentence imposed by the Judge or knowledge of the law.

Defendants who are in jail do not have money to pay for the public defender fee. When the defendants are brought to court before the judge while incarcerated the fee is waived and he orders the Clerk of Court to appoint the Public Defender. The Judge sometimes announces the amount of court costs owed by the defendant while announcing the sentence.

Further the Clerk of Court has no knowledge of any documentation to support the amount waived during sentencing to the trial Judge.

Ray W. Peck
ABBEVILLE COUNTY TREASURER
901 WEST GREENWOOD STREET, SUITE 1300
ABBEVILLE, SOUTH CAROLINA 29620

To: Steve Blake, CPA, CFE, CICA
From: Ray W. Peck, Treasurer
Date: March 12, 2015

Re: STATE AUDITOR'S REPORT
JUNE 30, 2014

I have revised my "Task schedule" so that future reports should be completed between the 10th and 15th of each month.

Abbeville County Finance

W. Barry Devore, Finance Director
901 W Greenwood St., Suite 2808
Abbeville, SC 29620
E-Mail: bdevore@abbevillecountysc.com
Phone: 864-366-6690 ext. 2239
Fax: 864-366-4595



"Heritage With A Future"

March 11, 2015

The response to the Supplementary Schedule finding is as follows:

The audit firm of Martin Smith & Company performs an annual audit of the financial statements of Abbeville County. Included in that audit report and the related financial statements is the Victim Services fund. Schedule 10 of the financial statements includes the audited amounts included in the victim services fund which is funded by both Magistrate court and clerk of court fines and fees. In the upcoming years, Martin Smith & Company will highlight on Schedule 10 that the victim services fund shown thereon includes funding from both Magistrate court and clerk of court and has been subjected to audit.

Sincerely, I am,

A handwritten signature in black ink, appearing to read "W. Barry Devore".

W. Barry Devore
Finance Director
Abbeville County