

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

BENNETTSVILLE, SOUTH CAROLINA

STATE AUDITOR'S REPORT

JUNE 30, 2013

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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
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September 15, 2014

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

The Honorable William B. Funderburk, Clerk of Court
The Honorable Delorice B. Barrington, Treasurer
Marlboro County
Bennettsville, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Marlboro County Circuit, Probate and Family Court System as of and for the year ended June 30, 2013, was issued by Cline Brandt Kochenower & Co., P.A., Certified Public Accountants, 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

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

August 18, 2014

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

The Honorable William B. Funderburk, Clerk of Court
Marlboro County Circuit and Family Court System
Bennettsville, South Carolina

The Honorable Delorice B. Barrington, Treasurer
Marlboro County
Bennettsville, South Carolina

We have performed the procedures described below, which were agreed to by the County of Marlboro and the Marlboro County Circuit, Probate and Family Courts, solely to assist you in evaluating the performance of the Marlboro County Circuit, Probate and Family Court Systems for the fiscal year ended June 30, 2013, in the areas addressed. The County of Marlboro and the Marlboro 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 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 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.
- We obtained the General Sessions' beginning and ending indictment numbers for all cases for the period under review from the Clerk of Court. We 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. We also determined that the fine, fee, assessment and/or surcharge adhered to State law and to the South Carolina Court Administration fee memoranda.

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Marlboro County
August 18, 2014

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

Our 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

- We gained an understanding of the policies and procedures established by the Probate Court to ensure proper accounting for all marriage license fees.
- We 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. We tested all licenses to determine that the marriage license fee adhered to State law.

There were no findings as a result of these procedures.

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Marlboro County
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3. County Treasurer

- We 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.
- We 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, 2013. We 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.
- 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.
- We verified that the amounts reported by the County on its supplemental 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.

There were no findings as a result of these procedures.

4. Victim Assistance

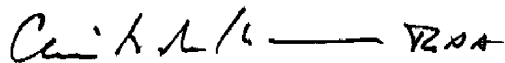
- We gained an understanding of the policies and procedures established by the County to ensure proper accounting for victim assistance funds.
- We made inquiries and performed substantive procedures to determine that funds retained by the County for victim assistance were accounted for in a separate account.
- We tested 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.
- We determined if the County reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with State law.
- We 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.

There were no findings as a result of these procedures.

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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 the county level of court for the twelve months ended June 30, 2013, 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. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our 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 Marlboro County Council, Marlboro County Clerk of Court, Marlboro County Treasurer, Marlboro County Probate Judge, 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.



Cline Brandt Kochenower & Co. P.A.

**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 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

Bench Warrants

During our test of General Sessions Court collections and remittances, we noted one instance where the judge sentenced the defendant in accordance with state law and additionally stated court fees must be paid within 30 days or a bench warrant would be issued. The defendant did not pay within the 30 days and a bench warrant was not issued.

Section 14-17-260 of the 1976 South Carolina Code of Laws, as amended, states, "The clerk shall (a) issue every execution, bench warrant or other process issuable or directed to be issued by the courts of sessions, in the name of the Attorney General or solicitor of the circuit,"

The clerk stated the judge's sentence was not properly monitored within the clerk's office and therefore a bench warrant had not yet been issued.

We recommend the Court implement procedures to ensure that additional conditions regarding court costs' payment are monitored.

ASSESSMENT AND COLLECTION OF FEES

Installment Fee

During our test of General Sessions Court collections and remittances, we noted one out of twenty-five instances where the Court assessed the three percent installment fee twice on the same individual.

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."

ADHERENCE TO FINE GUIDELINES, Continued

The Accounting Supervisor for the Clerk of Court's office stated that the system automatically assesses the three percent upon conviction. This case, however, was a carryover from the previous system and the three percent had been assessed in that system also; therefore, the three percent was assessed twice.

We recommend the Court implement procedures to ensure the installment fee is assessed in accordance with State law.

Public Defender Application Fee

During our test of General Sessions Court collections and remittances, we noted three instances where the Court should have assessed and collected the Public Defender Application fee for defendants that applied and qualified for a public defender. We did not agree the fee collection to the Clerk of Court's Office records because the fee collections are processed by the County Public Defender's Office.

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."

ADHERENCE TO FINE GUIDELINES, Continued

The Clerk of Court stated that the Public Defender's office, as an appropriate official, collects this fee and transmits the collection totals directly to the State Treasurer. The Public Defender's office stated that they do track detail by defendant's name and case number in their system.

We recommend the Court implement procedures to ensure fees are properly assessed and collected in accordance with State law and that such fees are processed through the county court management software system.

**COUNTY'S
RESPONSE**

William B. Funderburk

Clerk of Court, Marlboro County
Courthouse Square, 105 Main Street
P.O. Drawer 996
Bennettsville, S.C. 29512

September 12, 2014

Mr. Steve Blake, CPA
1225 West Floyd Baker Blvd.
P. O. Box 848
Gaffney, S. C. 29341

Dear Steve:

I have read over the audit report and you have three areas of concern. Everything has to do with General Sessions Court. I assure you we monitor the bench warrants and do request that the Judge place the defendant on probation so the monies will be easier to collect. Some Judges will not do that for small fine amounts. I am sure this bench warrant was just over looked by Ashley and this office will continue to monitor the few bench warrants we need to issue where probation is not involved.

Our CMS program does calculate all fines and court cost. During the conversion of the information if a defendant was charged the 3% twice, I feel that is on the State. Ashley always checks her monies after they are put in the computer. This must have been a balance that was brought from QS/1 to CMS.

As far as the public defender fee, the Public Defender 's office takes care of whether their application fee is collected or not. I turned that over to them a few years back because the person whom had been arrested a lot of times would come in the Clerk's office and they wanted to argue with us about their charges and the \$40.00 application. That is why I contacted the Public Defender's office and told them to start taking the money and applications.

Sincerely,

William B. Funderburk

William B. Funderburk
Marlboro County Clerk of Court

WBF/amw

