

**TOWN OF CALHOUN FALLS MUNICIPAL COURT  
CALHOUN FALLS, SOUTH CAROLINA**

**STATE AUDITOR'S REPORT**

**JUNE 30, 2014**



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November 12, 2015

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

The Honorable Dennis C. Bannister, Jr., Chief Judge  
Town of Calhoun Falls  
Calhoun Falls, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Calhoun Falls Municipal Court System 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 blue ink that reads "George L. Kennedy, III".

George L. Kennedy, III, CPA  
State Auditor

GLKIII/trb

# STEVEN L. BLAKE, CPA

## INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

November 9, 2015

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

The Honorable Dennis C. Banister, Jr., Chief Judge  
Town of Calhoun Falls Municipal Court  
Calhoun Falls, South Carolina

I have performed the procedures described below, which were agreed to by the Town of Calhoun Falls Municipal Court, solely to assist you in evaluating the performance of the Town of Calhoun Falls Municipal Court for the period July 1, 2013 through June 30, 2014, in the areas addressed. The Town of Calhoun Falls 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 Calhoun Falls 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 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 determine that the fine, fee, assessment or surcharge was properly allocated 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, and/or assessment charge 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 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

- I gained an understanding of the policies and procedures established by the municipal treasurer to determine timely reporting by the municipality.
- 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 verified 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, 2013 through June 30, 2014. I vouched the amounts reported on the State Treasurer's Revenue Remittance Forms to the court remittance forms or equivalents.
- I verified 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's supplemental schedule of fines and assessments contained all the required elements in accordance with state law.

My findings as a result of these procedures are presented in Timely, Accurate Recording and Reporting by the Town Treasurer, Court Cash Receipt Procedures, Monthly Reconciliations, and Court Software 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 determine 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 determine 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.

The Honorable Nikki R. Haley, Governor  
and  
The Honorable Dennis C. Banister, Jr., Chief Judge  
Town of Calhoun Falls Municipal Court  
November 9, 2015

- 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 support.
- I inspected the Municipality's victim assistance bank account 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 Supplementary Schedule and Victim Assistance Funds in the Accountant's Comments section of this report.

#### 4. Calculation of (Over)/Under Reported Amounts

- I obtained the Assistant Town Administrator's analysis of State Revenue Remittance forms and deposits from the Town Court for the 36 month period ended June 30, 2014. I calculated the amount under reported by the Municipality by category.

The results of my procedures disclosed that the Municipality under reported amounts due to the State and over reported amounts due the Victim Assistance Fund. My finding as a result of these procedures is presented in (Over) Under 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, 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, Chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, members of the Town of Calhoun Falls Council, Town of Calhoun Falls Clerk of Court, Town of Calhoun Falls 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

### TIMELY SUBMISSION OF REPORTS

The Clerk of Court did not prepare and submit any of the twelve State Treasurer's Revenue Remittance Forms (STRRF) timely. In addition, the STRRF line item amounts did not always relate to collections made for the month the STRRF related to. For example, the STRRF for October 2013 may contain payments made from March through October 2013. This makes it impossible to trace payments made to a STRRF in any chronological, monthly order.

Section 14-1-208(A) of the 1976 South Carolina Code of Laws, as amended, states "...This assessment must be paid to the municipal clerk of court and deposited with the city treasurer for remittance to the State Treasurer." 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 current Court Clerk stated that workloads, software inadequacies and general work organization appeared to have prevented the previous clerk from completing the tasks in an orderly and timely manner.

I recommend the Town implement procedures to ensure STRRF are prepared timely in accordance with State law.

### 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:

The Court fined one individual \$38.55 for driving under suspension, fixed period – 1<sup>ST</sup> 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 Court fined one individual \$585.54 for driving under suspension, fixed period – 2<sup>ND</sup> [DUS 2<sup>ND</sup>] offense. The test included another uniform traffic ticket [UTT] citation for DUS 2<sup>ND</sup> but I was unable to determine from the information available if this was the correct charge. If it was DUS 2<sup>ND</sup> offense the individual was incorrectly fined \$300 which is the fine for a DUS 1<sup>ST</sup> offense. The fine for a DUS 2<sup>ND</sup> offense is \$600.

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

The Court fined one individual \$15.66 for possession of 28g (1 oz) or less of marijuana or 10g or less of hash or cocaine, 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 Court fined one individual \$107.23 for public disorderly conduct.

Section 16-17-530 of the 1976 South Carolina Code of Laws, as amended, states, " Any person ... deemed guilty ...shall be fined not more than one hundred dollars... ."

The Court fined one individual \$114.22 for open container of alcohol in a vehicle.

Section 61-4-110 of the 1976 South Carolina Code of Laws, as amended, states "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 current Court Clerk did not know why the judge did not follow the sentencing guidelines.

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

### **COURT JURISDICTION LIMITS**

There was one instance and possibly a second where the Municipal Court tried a DUS 2<sup>ND</sup> case (see DUS 2<sup>ND</sup> finding above under 'Adherence to Fine Guidelines' finding). Generally municipal courts have jurisdiction when the mandated fines do not exceed \$500. The mandated fine for DUS 2<sup>ND</sup> is \$600.

Section 5-7-30 of the South Carolina Code of Laws states "...The municipal governing body may fix fines and penalties for the violation of municipal ordinances and regulations not exceeding five hundred dollars or imprisonment not exceeding thirty days, or both....".

The current Town Clerk did not know why the Court had tried these cases. The UTT was not available in either case. In one case the Town had entered the original charge in the court software system as DUS 2<sup>ND</sup> but the fine was under \$300. The other case appears to be a DUS 1<sup>ST</sup> but the fine entered in the software system was \$585.54.

I recommend the Town adhere to trying cases within their jurisdiction.

### **COURT RECORDS RETENTION**

During my testing of the twenty-five UTT supporting the Town's State Treasurer's Revenue Remittance Forms [**STRRF**], Town personnel could not provide me with 13 UTT, 11 receipts and six allocation spreadsheets used to support the numbers on the STRRF. One UTT provided had the 'Violation Section' blank. This missing information for 14 UTT made verification of the charge impossible. I therefore was unable to verify if fourteen individuals in these cases were sentenced in accordance with State law because of this lack of support. Also, I was unable to trace any information for six UTT into the STRRF, receipting system or bank account. By relying on the court software, extant UTT copies and prenumbered receipts copies, I was able to trace and determine that 19 UTT were in agreement with the partial information provided and posted to the STRFF. Because of a lack of records related to reconciling deposits, I was unable to trace any of the 25 UTT into the bank account. See the 'Monthly Reconciliations' finding in Section B below.

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, South Carolina Court Administration's Summary Court Bench Book, Memoranda 1996-03, sets forth retention guidelines for various court documents based on Justice Lewis' September 13, 1978 court order to county magistrates.

The current Court Clerk stated "you have been provided all the records we have, all that there is".

I recommend the Town implement procedures to ensure court accounting records are maintained and readily available for review. I also recommend that all court records are retained in accordance with Court Administration's retention schedule.

## **ALLOCATION SPREADSHEET ERRORS**

Within the boundaries of the limited documents provided (see 'Court Records Retention' finding above), the Clerk of Court's spreadsheet contained the following general and specific errors:

### **Installment Fee**

During my testing of Municipal Court collections and remittances, I noted four instances where the Town assessed and collected the three percent installment fee from individuals who paid the total amount due in one payment after the court date.

During my test of Municipal Court collections and remittances, I noted five instances where the Court did not assess and collect the three percent installment fee from individuals who paid in installments.

As this three percent fee is for the Town, it should not be included in the STRRF related amounts. The allocation spreadsheet does not segregate it so it is included in the fine and assessment allocation portions.

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 current Court Clerk stated "you have been provided all the records we have, all that there is".

I recommend the Municipal Court implement procedures to ensure the installment fee is charged, collected and allocated in accordance with State law.

### **Proration of Installment Payments**

The spreadsheet does not allocate fines paid on an installment basis ratably to all fine, assessment and surcharge categories as required. It is set up to allocate full surcharge amounts on every payment entered, including partial payments, and by doing so does not allocate enough of the payment to the fine and assessment portions. In some cases I tested, the fine and assessment portions were negative, thus deducting from the amount owed the Town and the State for their share of other fine and assessment allocations and therefore overpaying the surcharge portions.

The Judicial Department memo dated June 28, 2013 Section A.14 states "Section 14-1-209 provides guidance when the fine and assessment are paid in installments. 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. Prior to making these computations, you must determine what assessments and surcharges may apply (conviction surcharge, law enforcement funding fee, DUI assessments, etc.).”

The current Court Clerk stated that the spreadsheet errors have been corrected.

I recommend the Clerk of Court allocate installment payments as required by State law.

### **Conviction Surcharge**

The spreadsheet has assessed most misdemeanor traffic violations a \$25 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. The surcharge may not be imposed on convictions for misdemeanor traffic offenses .... No portion of the surcharge may be waived, reduced, or suspended."

The current Court Clerk stated that the spreadsheet errors have been corrected.

I recommend the Clerk of Court assess fines in accordance with State law.

### **Drug Surcharge**

The spreadsheet assesses \$100 for the drug surcharge, not \$150. Two non-drug cases I tested had drug surcharges. One drug case I tested did not have the drug surcharge.

Section 14-1-213 (A) of the 1976 South Carolina Code of Laws, as amended, states, "In addition to all other assessments and surcharges required to be imposed by law, a one hundred fifty dollar surcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in general sessions court or in magistrates or municipal court for misdemeanor or felony drug offenses. No portion of the surcharge may be waived, reduced, or suspended."

The current Court Clerk stated that the spreadsheet errors have been corrected.

I recommend the Clerk of Court assess surcharges in accordance with State law.

### **Driving Under the Influence [DUI] Surcharges and Pullout**

Three DUS cases I tested had DUI surcharges including the DUI pullout instead of the DUS pullout.

Section 56-5-2995(A) of the 1976 South Carolina Code of Laws, as amended, states, "In addition to the penalties imposed for a first offense violation of Section 56-5-2930 or 56-5-2933 in magistrate's or municipal court, an additional assessment of twelve dollars must be

added to any punishment imposed .... And Section 14-1-211 (A) (2) of the 1976 South Carolina Code of Laws, as amended, states, "In addition to all other assessments and surcharges, a one hundred dollar surcharge is imposed on all convictions pursuant to Section 56-5-2930 and Section 56-5-2933.

The current Court Clerk stated that the spreadsheet errors have been corrected.

I recommend the Clerk of Court assess surcharges in accordance with State law.

### **Driving Under Suspension [DUS] Pullout**

Four DUS cases I tested did not include the \$100 DUS pullout.

Section 56-1-460 (C) of the 1976 South Carolina Code of Laws, as amended, states, "One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol."

The current Court Clerk stated that the spreadsheet errors have been corrected.

I recommend the Clerk of Court assess fines in accordance with State law.

### **Public Defender Application Fee**

During my testing I observed one public defender application fee transmitted on one spreadsheet. It was classified as Town general fund revenue, not State revenue.

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 ... and remit the proceeds to the state fund on a monthly basis."

The current Court Clerk stated that the spreadsheet errors have been corrected.

I recommend the Clerk of Court assess fees in accordance with State law.

### **Spreadsheet Errors - General**

One ticket tested had no surcharges assessed. One receipt of a total fine payment for two tickets was listed as one single payment, assessed one set of surcharges and reported on a STRRF as if it were a single offense payment. All speeding tickets are listed on the spreadsheet as 'less than 10 MPH over the limit' even though the fines include different offenses; for example 'over 25 MPH over the limit'.

The relevant sections of the 1976 South Carolina Code of Laws, as amended referenced above include surcharges to be assessed on every ticket on an offense by offense basis; not on a receipt by receipt basis.

The current Court Clerk stated that the spreadsheet errors have been corrected.

I recommend the Clerk of Court assess fees in accordance with State law.

### **ADHERENCE TO UNIFORM TRAFFIC TICKET LAWS**

One ticket tested for which the violator's ticket copy was made available contained a roadside bond amount of \$500. The receipt showed the citation was paid in full for \$103.

Section 56-7-10 of the 1976 South Carolina Code of Laws, as amended, states "(A) there will be a uniform traffic ticket used by all law enforcement officers in arrests for traffic offenses ... (C) No other ticket may be used for these offenses. The service of the uniform traffic ticket shall vest all ... courts with jurisdiction to hear and to dispose of the charge for which the ticket was issued and served. In addition, South Carolina Court Administration's Summary Court Bench Book, Memoranda 2007-06 sets out procedures for revising uniform traffic tickets using the Trial Court copy of the ticket, not the Violator's copy.

The current Court Clerk stated there is no documentation to explain what changes were made to the ticket.

I recommend the Court document any citation revisions in accordance with the memoranda on the Trial Court copy.

### **TIMELY, ACCURATE RECORDING AND REPORTING BY THE TOWN TREASURER**

#### **Timely Submission of State Treasurer's Revenue Remittance Form**

The former Town treasurer did not prepare and submit any of the twelve State Treasurer's Revenue Remittance Forms (STRRF) timely. Copies of State Treasurer's Office receipts were not kept. Some months during the procedures period had several STRRF filed for that month at various times throughout the procedures period and afterwards.

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 current Assistant Town Administrator stated that workloads, software inadequacies and general work organization appeared to have prevented the previous clerk from completing the tasks in an orderly and timely manner which prevented the former treasurer from filing the STRRF timely. Monies were accumulated over a long period and placed in the safe awaiting processing. The treasurer also stated a major effort to restore timeliness occurred in May 2014 when extra staff were hired to focus attention on submitting as many late STRRF as possible.

It was during this effort that multiple STRRF were filed for previously filed months as well as payments from multiple months appearing on a single month's STRRF.

I recommend the Town implement procedures to organize work flow and ensure the STRRF are submitted by the fifteenth day of each month in compliance with State law.

### **STRRF Supporting Documents and Errors**

During my testing of the Town's State Treasurer Revenue Remittance Forms (STRRF), I noted amounts reported on one of the December 2013 STRRF did not agree to the support for lines L and N. One of the May 2014 STRRF, date stamped as received by the State Treasurer's Office June 2, 2014, had no support. All STRRF submitted for the 12 months ended June 30, 2012 had no allocation spreadsheet support enabling me to determine which tickets or cash collections the submitted STRRF related to, therefore, only assumptions as to what those STRRF included are possible. I was given copies of some STRRF that contained data and signatures but had no support or evidence they had ever been filed. The Town's general ledger contained no accounting for any court funds. Because of the many allocation spreadsheet errors (See 'Allocation Spreadsheet Errors' above), especially the DUI, DUS and conviction surcharge errors, along with the negative assessment totals, none of the STRRF contain accurate data. Because of the lack of monthly reconciliations and lack of detail for bank deposits (See 'Court Cash Receipt Procedures' and 'Monthly Reconciliations' findings in Section B below) I was unable to determine if the STRRF contained all collections for a given month related to the docket for any time during the year.

Also, because I was not provided six allocation spreadsheets for the procedures period, I was unable to determine if six of the tickets I tested which were paid were ever submitted on a STRRF to the State Treasurer's Office.

The former Clerk of Court and Treasurer terminated employment with the Town prior to the start of my engagement and current town personnel were unable to find the documentation I requested. During my testing I did note that the current Town Treasurer/Clerk of Court prepares and maintains an allocation worksheet to support amounts recorded on the STRRF on a monthly basis.

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."

Town personnel could not explain the differences nor could they provide me with any additional documentation to support the amounts reported on the STRRF.

I recommend the Town implement procedures to ensure court accounting records are maintained and readily available for review. I also recommend that all court collections reported and remitted to the State Treasurer be reconciled to accounting records and deposits as well as reviewed for accuracy.

### **Supplementary Schedule**

The Town provided an audited financial statement from June 30, 2014, the latest available audit, which included a schedule of fines and assessments for my procedures testing. There was no general ledger available with this schedule therefore I was unable to reconcile amounts to the general ledger. The schedule did not include total fines collected or total fines retained as required by law. The audit report had a disclaimer of opinion because of a lack of adequate accounting records from which to prepare financial statements. The victim assistance expenditures were unsubstantiated.

Section 14-1-208(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 municipal court; (b) all assessments collected by the clerk of court for the municipal court; (c) the amount of fines retained by the municipal treasurer; (d) the amount of assessments retained by the municipal 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."

I recommend the Town implement procedures to ensure amounts reported on the supplementary schedule are accurately reported in accordance with State law.

### **VICTIM ASSISTANCE FUNDS**

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

- The Town assesses a conviction surcharge on most misdemeanor traffic violations. Assessing misdemeanor traffic violations with the conviction surcharge inflates the cumulative balance. (See 'Conviction Surcharge' under 'Adherence to Fine Guidelines' above)
- There was no attempt to cumulatively track, either by fund accounting or manually, the aggregate balance of Victim Assistance funds.
- The June 30, 2014 Schedule of Fines and Assessments had a Victim Assistance carry forward balance of \$113,452 but no support was available to substantiate this amount. The bank account balance was \$113,195. The manual accounting done

states the balance should be \$121,962, including the inflated amounts of conviction surcharges on misdemeanor traffic violations, which would require an additional deposit of \$8,767.

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 current Assistant Town Administrator stated the procedures period balance had been manually tracked but they were not able to substantiate through available Town records any amounts prior to that.

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. I also recommend the Town establish a separate general ledger account to ensure the transparency of its Victims' Assistance funds and determine cumulative balances due to Victim Assistance.

#### **(OVER) UNDER REPORTED AMOUNTS**

During my testing I determined the system used to process tickets, collections of fines and STRRF cannot be relied upon to produce accurate information that reconciles at any point in time; daily, weekly, monthly. The Assistant Town Administrator prepared a schedule comparing bank deposits identified as originating in the Town's court system for the 24 month procedures period ended June 30, 2014 with amounts identified as supporting the STRRF. These amounts have estimates based on interpretations of unsupported data so they are not represented as accurate, but reasonable estimates given the conditions mentioned above. They are as follows:

Total amount of fine revenues represented as supporting STRRF that were confirmed to be submitted to the State Treasurer's Office for the 24 months ended June 30, 2014:	\$ 72,012.65
Actual bank deposits represented as originating from the Town's court system for the 24 months ended June 30, 2014:	<u>\$ 79,265.02</u>
Balance represented as unallocated, unsubmitted funds for the 24 months ended June 30, 2014:	<u>\$ (7,252.37)</u>

Because the majority of tickets adjudicated are speeding under 10 miles per hour over the speed limit, if one were to assume all of the above funds represented payments for those violations for surcharge calculation purposes only, then the table below shows the amount due the State Treasurer's Office based on the above assumptions:

STRRF LINE	DESCRIPTION	
K.	Municipal Law Enforcement Surcharge - \$25 per case	2,214.33
KA.	Municipal LE Surcharge - \$5	442.87
L.	Municipal Court -107.5%	<u>2,114.95</u>
M.	TOTAL REVENUE REMITTED TO STATE TREASURER	<u>4,772.15</u>
	<b>COUNTY VICTIM FUND</b>	
N.	Assessments - Municipal -107.5%	<u>265.68</u>
P.	TOTAL VICTIM MONEY RETAINED BY LOCAL GOVERNMENT	<u>\$ 265.68</u>

The amounts for the STRRF for the twelve months ended June 30, 2012 were unsupported; the only information available are deposits made during the twelve months and amounts reported on the STRRF related to that same time period. I have determined, using similar ratios of amounts deposited for the previous fiscal periods, that \$42,518.97 was deposited from court fines collected that were applicable to the twelve months ended June 30, 2012. I also determined using \$81.88, the total fine amount for speeding, less than 10 mph over the limit that was used in the assumption above, those deposits would represent approximately 519 violations. Using these assumptions to allocate the deposited collections would produce a fine amount for the Town of \$12,983.35 and thus \$27,978.01 for the State and \$1,557.61 for victim assistance. According to the submitted STRRF, \$24,689.10 was submitted to the State and \$7,567.20 was submitted for victim assistance.

Based on the above assumptions and the calculations using them, the table below shows the amount due the State Treasurer's Office based on the above assumptions for the twelve months ended June 30, 2012:

<b>STRRF LINE</b>	<b>DESCRIPTION</b>	
<b>K.</b>	Municipal Law Enforcement Surcharge - \$25 per case	1,445.55
<b>KA.</b>	Municipal LE Surcharge - \$5	289.11
<b>L.</b>	Municipal Court -107.5%	<u>1,554.25</u>
<b>M.</b>	TOTAL REVENUE REMITTED TO STATE TREASURER	<u>3,288.91</u>
<b>COUNTY VICTIM FUND</b>		
<b>N.</b>	Assessments - Municipal -107.5%	<u>(6,009.59)</u>
<b>P.</b>	EXCESS VICTIM MONEY RETAINED BY LOCAL GOVERNMENT	\$ <u>(6,009.59)</u>

The \$2,720.68 difference from the table above is owed by the victim assistance fund to the Town as the Town's share of the fine money over allocated to the victim fund. See Victim Assistance Fund finding above for further details.

I recommend the Town implement a process to ensure timely filing and payment of amounts due the State Treasurer.

## **SECTION B – OTHER WEAKNESSES**

The conditions described in this section have been identified while performing agreed-upon procedures but they are not considered violations of State Laws, Rules or Regulations.

## **COURT CASH RECEIPT PROCEDURES**

During my testing I was unable to trace any ticket payments from the court receipt into the Town's bank deposit. The Town Clerk can produce a cash summary report at any time. Posting payments for tickets to the court software system was not standard procedure. The Town does not individually list the check amounts and receipt or ticket numbers on the deposit slip. Collections were held in a safe for long periods of time before deposit.

Supreme Court Justice Toal issued a court order to county magistrates, dated September 13, 2007. Section II, item C. states, "At the end of each day, all receipts issued shall be totaled, and the total indicated on the Daily Cash Summary Report." Section III, item C states further "...deposit slips shall be prepared for each separate account .... These deposit slips shall include: List of checks deposited (name of Defendant and amount of check must be included), total cash deposited, the starting and ending receipt numbers ...". While this order is directed to county magistrate courts, it could also be applied to municipal courts to improve overall internal control over financial activity.

The Town Clerk and Treasurer responsible for the procedures period left Town employment. Current personnel are aware of the specific requirements.

I recommend that the Town Clerk develop a daily cash receipt report when transmitting payments receipted to the Town Treasurer and I further recommend the Town Treasurer deposit this transmittal intact, i.e. on its own separate deposit slip. Also, the Town Treasurer should attach the validated deposit slip from the bank to the daily cash receipt report copy.

## **MONTHLY RECONCILIATIONS**

The court does not perform timely monthly reconciliations between the court's docket of adjudicated tickets, prenumbered paper receipts and deposits made during the month.

Section V, item B. of Justice Toal's March 13, 2007 court order to county magistrates states, "The remittance must include a full and accurate statement of all monies collected ... on account of fines during the past month together with the title of each case in which a fine, fee, or cost has been paid. Remittances must balance with the appropriate docket sheet(s)." While this order is directed to county magistrate courts, it could also be applied to municipal courts to improve overall internal control over financial activity.

Because the court does not perform timely reconciliations of its court docket to its bank deposits it could unknowingly cause fines, fees and assessments to be over or under allocated and remitted to the State Treasurer, Town and/or Victims' Assistance.

## **COURT SOFTWARE**

The software system the Court uses is not compliant with State laws in how it assesses and allocates fines. This necessitates the use of a spreadsheet based allocation method.

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."

The Town uses an obsolete and archaic court software system. The system is not well documented or understood by the users of the system.

The judge stated the Town has limited funds to purchase software and to provide training to staff and maintenance of the system.

I recommend the Town develop a plan to identify ways to improve accountability over its court financial activity to ensure compliance with State laws, rules and regulations. I recommend that it network with other neighboring towns to identify best practices and implement changes to ensure compliance.

# MUNICIPALITY'S RESPONSE

**TOWN OF CALHOUN FALLS**  
**410 North Washington Street**  
**P.O. Box 246**  
**Calhoun Falls, SC 29628**

November 16, 2015

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

Dear Mr. Gilbert:

We have reviewed and authorize the release of the State Auditor's report for the fiscal years 2013/2014, 2012/2013 and 2011/2012.

As reflected in the report's findings, numerous irregularities and incidents that are termed in the report as "violations of State law" prompted the Town of Calhoun Falls to undertake a voluntary internal investigation of the performance of the Municipal Court, primarily for the fiscal year ending June 30, 2014, prior to being notified by your Office that the Municipal Court would be subject to a random ticket audit for that fiscal year. It is important that the Town of Calhoun Falls use this opportunity to respond to the findings of the auditor's report, by recounting the detailed circumstances that led to the findings, and outlining the policies and procedures enacted by the Town to remedy those issues and prevent their recurrence in the future.

In late May, 2014, a letter to the former Mayor from the State Treasurer's Office (STO), dated August 29, 2013 was discovered, which letter stated that State funds to the Town would be withheld due to the Town's failure to submit an annual audit for FY 2011/2102. It was further discovered that multiple letters from the STO had been previously received, dating from May 17, 2013, advising that at least 25% of all State funds would be withheld due to the Town being more than 90 days delinquent in remitting court fines to the STO.

As a result, in late May, 2014, Town Hall was "closed" and all staff was involved in processing numerous outstanding tickets and documenting the payment of fines in the form of cash, checks and money orders. All known tickets were processed, with some dating as far back as nine (9) months, and \$14,760.71 in cash, checks and money orders that was left to accrue during that time was deposited on May 30<sup>th</sup>. Subsequently, the State Treasurer's Revenue Remittance Forms (STRRF) and payments were submitted to the STO in early June, 2014 for the months of September, October, November and December, 2013, as well as January, February, March, April and May, 2014 ... a total of nine months for which either no forms/fines, or only

partial forms/fines had been previously submitted. Following this initiative, repeated inquiries were made of all staff with respect to their knowledge of any other outstanding tickets and payments, and all staff members claimed to have no such knowledge of any other unprocessed tickets and fines collected.

Town staff and resources were dedicated over the summer of 2014 to resolving the issue of incomplete and inconsistent STRRF's for the Fiscal Year 2011/2012, which were causing the delay of the independent audit, the completion of which would trigger the release of a portion of the funds being withheld at that time by the STO. The FY 2011/2012 independent audit was completed, and a portion of the funds were released by the STO. The filing of monthly court fines remittance forms to the STO was brought current in July, and additional funds were released to the Town; however, the STO began a new round of withholdings because 1) the online annual financial report and 2) the independent audit for FY 2012/2013 had not been submitted to the STO in a timely fashion. Both the report and the independent audit for FY 2012/2013 were eventually completed, and ALL funds that were being withheld by the STO were released to the Town by August 31, 2014. In total, more than \$230,000 had been withheld by the STO during the period August, 2013 to August, 2014.

The then Court Clerk retired in early September, 2014. However, on the morning of September 26, 2014, the husband of the former Court Clerk brought to Town Hall a tote bag containing packets of full or partial STRRF's, spreadsheets, tickets and receipts, as well as \$18,884.41 in cash, checks and money orders. These had apparently been taken out of Town Hall sometime prior to May, 2014. The Town Police and SLED were contacted, and the contents of the tote bag were meticulously recorded. Packets were for months as far back as November, 2012, and also included February through December, 2013, and January through July, 2014 ... a total of eighteen (18) past months. The failure to process these tickets, deposit the fines and forward funds to the STO in a timely manner caused the STO to once again begin withholding funds from the Town. The cash, checks and money orders found in the tote bag were deposited. In a letter to the STO, dated January 27, 2015, all the STRRF's prepared from the documentation contained in the tote bag for the months in FY 2013/2014 were forwarded, along with a check in the amount of \$6,189.56. Subsequently, all the STRRF's and a check for the months that should have been reported and submitted in FY 2012/2013 were forwarded to the STO. With that, to the best of staffs' collective knowledge, the Town of Calhoun Falls was current with the submission of forms and the State's share of fines collected. .

It must be noted that, at no time between January 1, 2014 ... the date that the "new" Mayor and Council assumed office ... and May, 2014, were the Town's elected officials or administrators advised by any staff that the STO had been withholding funds since August, 2013. It was only when the letter referenced earlier was inadvertently discovered in a desk drawer, and questions were asked, did the severity of the situation come to light. Even with the knowledge that the Town was at least 90 days behind in submitting remittance forms and funds to the STO, no monthly court fines reports were submitted in a timely fashion for October, 2013; December, 2013 through March, 2014; and May, 2014 ... thereby putting the Town an additional 6 months in arrears. The Clerk/Treasurer resigned in September, 2014.

Subsequently, the Town undertook an internal analysis to assess the failures of past practices, and develop an effective set of policies and procedures intended to avoid repeating those mistakes, and eliminate their deleterious effects on the Town's finances. There were so

many lapses in procedures and practices regarding the collection, deposit and distribution of court fines that, effectively, the process had to be re-established. **The specific changes to process and policies that have been or are being initiated are listed below in red**, with an explanation, if necessary.

**The fundamental change that has been initiated by the Town is quite basic, and involves submitting the STRRF's along with the State share of the court fines for every month, no later than the 15<sup>th</sup> of the following month.** This is consistent with the auditor's findings with respect to *Timely Submission of Reports*. It relies primarily on the Clerk of Court being conscientious to the point of accurately inputting the disposition of cases and fine payments made immediately after each court session, and generating the monthly STRRF after the last court session of the month (including any fines or fees paid for previously adjudicated cases); depositing the fines; remitting the form and payment to the STO; and transferring the appropriate share of fines collected into the Victims' Services account. In addition, the Clerk/Treasurer thoroughly reviews the monthly remittance forms to be submitted prior to "signing off". Since October, 2014, all monthly reports have been submitted to the STO on a timely basis.

**All cases are diligently entered into the PD Manager database, monitored, updated and closed-out ... which data provides the input for the excel spreadsheet that generates the monthly STRRF's. Orderly, monthly file folders have been established to include copies of: STRRF's and supportive spreadsheets; tickets and/or warrants; payment receipts; and bank deposit slips. Additionally, a copy of same is made available to the Clerk/Treasurer to create a redundancy and serve as a "check and balance" against the work of the Clerk of Court.** This ensures that interim or summary reports, which can only be run by PD Manager tech support, will be complete. A review of the then existing practices revealed that, in many instances, the case dispositions were entered directly into the companion spreadsheet (to generate the STRRF), but not into the PD Manager database. The data entered into the PD manager database does not interface with the software system that is used to record violations and calculate the payment and distribution of fines, including generating the STRRF. The entry of this data is now done carefully to ensure consistency between the two systems, and to create files that can be easily accessed at any time, as required. This addresses the auditor's findings with respect to *Court Records Retention*.

As a result of the systemic issues brought to light by the audit, the *Drug Surcharge, DUI Surcharge and Pullout, DUS Pullout, Public Defender Fee and Conviction Surcharge* are now correctly being applied. **The spreadsheet that generates the values in the accompanying STRRF, as well as the STRRF itself, have been carefully reviewed and properly re-designed in an Excel format so that no values or dates have to be hand-written onto the form. Also, corrections were made to the formulas in the STRRF spreadsheet for the DUI assessment, the drug court charge, the distribution of "56-series" fines and fines generated by local ordinances, all as cited in the auditor's report.** Recent failures here resulted in chronic underpayment to the STO and over-allocation of the share of fines to Victim Services. In connection with this audit, a review of Victim Services allocations has been conducted for FY 11/12, FY 12/13 and FY 13/14, and the audit findings with respect to the Town's over-allocation of fines for Victim Services have been preliminarily detailed and forwarded to SOVA for review.

**The Town has established a bank account dedicated exclusively to the deposit of court fines collected via cash, money orders. While arrangements have not yet been made for credit card payments to be directed to the court fines account, the Clerk/Treasurer is provided with all credit card payment receipts so that these funds can be transferred into the dedicated court fines account. Personal checks are no longer accepted.** Previously, all fines collected were deposited into the general fund, which made transfers and distributions very difficult to track and audit.

**Bank deposits of court fines are routinely made the same day the fine is paid, unless it is late in the day and after bank hours, in which case the deposits are made the morning of the next business day.** Previously, fines were held, on occasion, for months at a time ... sometimes matching months-long delays in submitting the remittance forms and the STO's share of court fines. As an example, at the time of the staff initiative at the end of May, 2014, \$14,760.71 had accrued in the Town's safe ... and was potentially exposed to loss or theft during that time.

**All court fine deposit tickets now include the name of the defendant and ticket number, thereby ensuring complete tracking for any unexpected reason, or for future audits.** Previously, only deposits paid by check were recorded by name only, so it was difficult, if not impossible, to verify that fines paid actually made it to the deposit stage.

**Time payment plans have been reduced to a maximum of 30 days.** Previously, payment periods were permitted for up to 6 months, which made tracking and reporting difficult, if remembered at all. Additionally, Installment Payments spanning monthly reports are now being properly recorded, including the addition of an *Installment Fee* and the *Proration of Installment Payments*, so that multiple surcharges and pullouts are not applied, thereby resulting in incorrect reporting to the STO.

**The Court Clerk responsibilities now include picking up warrants and court documents from the Abbeville County Law Enforcement Center in order to update the PD Manager database, which had previously been handled by the CFPD.**

**The Court Clerk now forwards (yellow) copies of all tickets to Driving Records in Columbia, SC, to ensure proper notification of the final disposition of the cases, which was previously handled by the CFPD.** This ensures a more seamless notification process by eliminating a double-handling of tickets and an opportunity for miscommunication or failed follow-up, which could lead to defendants' driver's licenses unwittingly being suspended by SC DMV.

The Town of Calhoun Falls has taken the obvious shortcomings surrounding the processing of tickets through its Municipal Court very seriously, since the extensive damage being done to the Town's finances was discovered in late May, 2014. While the auditor has provided very specific examples resulting from the long-term effects of lack of supervision of the process, all of the auditor's recommendations have been implemented ... and the Mayor and Town Council offer assurances to the State Auditor and STO that strict adherence to the "new" process will be given the highest priority.

Your favorable consideration of this response will be appreciated, and we would invite the SC Auditor to conduct a follow-up audit for FY 2014/2015 to confirm the effectiveness of the new policies and procedures put in place.

Thank you.

Sincerely,

A handwritten signature in black ink, consisting of a stylized 'J' followed by a series of loops and a horizontal line extending to the right.

Johnnie Waller  
Mayor