

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

**State Auditor's Report
April 30, 2006**

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

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State of South Carolina



Office of the State Auditor

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January 3, 2007

The Honorable Mark Sanford, Governor
State of South Carolina
Columbia, South Carolina

The Honorable Jessica Poole, Clerk of Court
Town of Gaston
Gaston, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Gaston Municipal Court for the period May 1, 2005 through April 30, 2006, 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/trb

Richard H. Gilbert, Jr., CPA
Deputy State Auditor
Office of the State Auditor
Columbia, South Carolina

We have performed the procedures described below which were agreed to by the South Carolina Office of the State Auditor solely to assist these users in evaluating the performance of the Town of Gaston Municipal Court System and to assist the South Carolina Office of the State Auditor in complying with the 2005 - 2006 General Appropriations Act (H. 3716) Section 72.86. Jessica Poole, Clerk of Court for the Town of Gaston is responsible for compliance with the requirements for the Municipal Court reporting and the South Carolina Office of the State Auditor is responsible for compliance with the requirements of the 2005 - 2006 General Appropriations Act (H. 3716) Section 72.86. This engagement to apply agreed-upon procedures was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the specified users of the 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 associated findings are as follows:

1. **TIMELY REPORTING BY THE CLERK OF COURT**

- We researched South Carolina Code of Laws Section 14-25-85 to determine the definition of timely reporting with respect to the Clerk of Court's responsibility for reporting fines, fees and assessments to the Municipal Treasurer.
- We inquired of the South Carolina Judicial Department to determine their requirements for both the manner in which partial pay fines and fees are to be allocated and the timing of the report and remittance submissions by the Clerk and the Treasurer.
- We inquired of the Clerk of Court and Municipal Treasurer to gain an understanding of their policy for ensuring timely reporting and to determine how the treasurer specifically documents timeliness.
- We inspected documentation, including the Clerk of Court Remittance Forms or equivalents for the months of May 1, 2005 through April 30, 2006 to determine if the Clerk of Court submitted the reports to the municipal treasurer in accordance with the law.

We found no exceptions as a result of the procedures.

2. TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN

- We traced each month's reporting by the Clerk of Court to the Municipal Treasurer's Office and to the Town's general ledger accounts for the assessments (Sections 14-1-208(A), (B) and (D)) and victim's assistance surcharge (Section 14-1-211) for the period May 1, 2005 to April 30, 2006.
- We compared the amounts reported on the Clerk of Court Remittance Forms or equivalents to the Clerk of Court's software system-generated report summaries for three judgmentally determined test months. We tested the system-generated reports for compliance with various laws including Section 35.11 of the General Appropriations Act for the fiscal year 2005 – 2006 and with South Carolina Judicial Department training instructions and interpretations.
- We judgmentally selected and compared individual fine and assessment amounts recorded in the Clerk of Court's software system-generated detail reports to the Judicial Department guidelines' range for the offense code to see if the fine and assessment were within the minimum and maximum range.

Our finding is reported under "TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN" in the Accountants' Comments section of this report.

3. PROPER VICTIM'S ASSISTANCE FUNDS ACCOUNTING

- We inquired as to the format determined by Town council and local policy for record keeping as it relates to fines and assessments in accordance with Section 14-1-208(E)(4).
- We compared the fiscal year-ended June 30, 2005 audited Victims' Rights Fund fund balance with all adjustments to the fund balance shown in the Schedule of Fines, Assessments and Surcharges of the audited financial statement and to the beginning fund balance as adjusted in that fund for fiscal year 2005.
- We verified the Victims' Rights Fund reimbursable expenditures were in compliance with Section 14-1-208(E) and Section 14-1-211(B).

Our finding is reported under "PROPER VICTIM'S ASSISTANCE FUNDS ACCOUNTING" title in the Accountants' Comments section of this report.

4. TIMELY ACCURATE REPORTING TO THE STATE TREASURER

- We vouched the amounts reported in the South Carolina State Treasurer's Revenue Remittance Forms to Clerk of Court Remittance Forms or equivalents for the period May 1, 2005 to April 30, 2006.
- We scanned the South Carolina State Treasurer's Revenue Remittance Forms for timely filing in accordance with Section 14-1-208(B).
- We traced amounts recorded in the Town's financial statement Schedule of Fines, Assessments and Surcharges of the year ended June 30, 2005 report related to fines and assessments revenues reporting in accordance with Section 14-1-208(E) to supporting schedules used in the audit to comply with Section 14-1-208(E).
- We traced and agreed amounts in the supporting schedules to the Clerk of Court Remittance Forms or South Carolina State Treasurer's Revenue Remittance Forms.

Our findings are reported under "TIMELY ACCURATE REPORTING TO THE STATE TREASURER" in the Accountants' Comments section of this report.

We were not engaged to, and did not conduct an audit the objective of which would be the expression of an opinion on compliance with the collection and distribution of court generated revenue at any level of court for the twelve months ended April 30, 2006 and, furthermore, we were not engaged to express an opinion on the effectiveness of the internal controls over compliance with the laws, rules and regulations described in paragraph one and the procedures of this report. Had we performed additional procedures other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Office of the State Auditor, Chairmen of the House Ways & Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, State Treasurer, Office of Victim Assistance, Chief Justice and the Governor and is not intended to be and should not be used by anyone other than these specified parties.



October 5, 2006

ACCOUNTANTS' COMMENTS

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**SECTION A - MATERIAL WEAKNESSES AND/OR VIOLATIONS OF STATE LAWS,
RULES OR REGULATIONS**

The procedures agreed to by the agency require that we plan and perform the engagement to obtain reasonable assurance about whether noncompliance with the requirements of State Laws, Rules, or Regulations occurred and whether internal accounting controls over certain transactions were adequate. Management of the entity is responsible for establishing and maintaining internal controls. A material weakness is a condition in which the design or operation of one or more of the specific internal control components does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Therefore, the presence of a material weakness or violation will preclude management from asserting that the entity has effective internal controls.

The conditions described in this section have been identified as material weaknesses or violations of State Laws, Rules, or Regulations.

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TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN

REPORTING FINES

CONDITION: The Town reports the entire amount of the State's portion of the fine levied by the court as due to the State when the case is adjudicated and the docket is turned in with a guilty verdict. The Town has actually completed entering data in State Treasurer's Office Revenue Remittance Forms using these incorrect numbers.

CRITERIA: South Carolina Code of Laws Section 14-1-208(B) states "Assessments paid in installments must be remitted as received." The State Treasurers office instructions for the Revenue Remittance form itself states "Enter . . . collections." Therefore, the basis of accounting for revenue recognition should be the modified cash basis of accounting.

CAUSE: The Town uses an Excel-generated Docket. The Treasurer receives a copy of this docket for each month. The Treasurer assumed that the fines were due when the violator was found guilty. No consideration was given to when the revenue was available and measurable.

EFFECT: When the Town remits money to the State for any dockets ahead of the cash being collected for the fine, the Town would be advancing the State the Town's money ahead of violator's collections. Partial payments made towards those fines would reimburse the Town for the advance remittance. At the point the violator would pay the final payment of his installments, his payments would equal what the Town originally remitted to the State. Any amount that is still owed on partial payments, properly allocated, would be the amount that is over remitted to the State. Since the Town has not submitted either money or State Treasurer's Office Revenue Remittance Forms to the State Treasurer since July of 2003 through the end of the procedures period, the Town has not advanced money to the State.

AUDITORS' RECOMMENDATION

The Town should develop and implement procedures to remit monies to the State Treasurers office on a modified cash basis. The Town should consider using the software they purchased as part of those procedures.

LAW ENFORCEMENT SURCHARGES

CONDITION: The Town has not properly recorded the Law Enforcement Surcharge for the fines reported on the monthly dockets that were used for calculating the fine allocations.

CRITERIA: Temporary Proviso 73.2 of the 2005-2006 General Appropriations Act establishes a Law Enforcement surcharge to be added to every fine levied by the judge.

CAUSE: The Treasurer allocates the fines levied manually and was not aware that part of the fine levied included a \$25 Law Enforcement Surcharge.

EFFECT: The Town has not allocated the correct amount to the Law Enforcement Surcharge. The Town Treasurer cannot properly report or submit the \$25 collected on every fine as the Law Enforcement Surcharge, but will keep the money as local fine revenue due to the improper allocation.

AUDITORS' RECOMMENDATION

The Town should implement procedures to prospectively correct the problem. The Town should determine the cumulative effect of the errors made and correct as necessary. The Town should have its external auditor opine on the corrections.

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OTHER FINES, ASSESSMENTS AND SURCHARGES

CONDITION: The Treasurer manually calculates the assessments, surcharges and pull-outs on the docket sheets each month. The Treasurer does not always list Drug Surcharges, Conviction Surcharges or other required amounts; only the State share of the assessment and the Victims' Assistance share of the assessment.

CRITERIA: Each law and proviso contains the required assessment, surcharge and pull-out amounts and which charges they should be levied upon.

CAUSE: The Treasurer allocates the fines levied manually and was not aware that other assessments, surcharges and pull-outs apply and to which charge they apply.

EFFECT: The Town has not allocated the correct amount to these other assessments, surcharges and pull-outs. The Town Treasurer cannot properly report or submit the assessments, surcharges and pull-outs collected on every fine, but will keep the money as local fine revenue.

AUDITORS' RECOMMENDATION

We recommend the Treasurer design and implement procedures to ensure that each fine the judge assesses is properly allocated between every assessment, surcharge and pull-out that is applicable.

ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

CONDITION: The Judge is assessing \$50 for a Child Restraint violation rather than the mandated \$25. Based on the charge listed on the manual docket, it appears certain speeding violations are assessed at below the minimum required in the law.

CRITERIA: Judicial Department Guidelines for Fines – Minimums and Maximums. These guidelines are obtained from the minimum and maximum fines recorded in the respective legislations.

CAUSE: The Judge was not properly sentencing violators using the correct maximum or minimum fine amounts.

EFFECT: The Town's fines were not set at the maximum or minimum amounts set by the respective laws.

AUDITORS' RECOMMENDATION

The Town should determine the extent of the error and make the necessary adjustments to its accounting system to properly distribute the fine revenues. This would include revising reports prepared for the State Treasurer's Office. These changes should occur as soon as possible. The Town's external auditor should issue a separate report opining on the Town's determination.

PROPER VICTIM'S ASSISTANCE FUNDS ACCOUNTING

LACK OF VICTIMS' ASSISTANCE FUND ACCOUNTING

CONDITION: The Town does not maintain separate fund accounts for the Victims' Assistance program.

CRITERIA: Good internal control as well as the South Carolina Code of Laws Section 14-1-208(E)(4) requires the municipal treasurer to keep adequate records of monies restricted for certain purposes under the law so that they can be reviewed by auditors for compliance in accordance with the law.

CAUSE: The Town Treasurer was not aware of any requirement to separately account for the Victims' Assistance monies.

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EFFECT: Currently there is no accounting record of the amount of Victims' Assistance revenues collected or monies spent for the current year. Therefore Town management cannot readily determine the amounts allocated to the Victims' Assistance program from fines and assessments, the amount expended for Victims' Assistance program or the program fund balance.

AUDITORS' RECOMMENDATION

According to the Treasurer, the original source documents are in storage that would enable the Town to recreate the books for the Victims' Assistance fund since the inception of the legislation. There have been only two expenditures of the funds since the beginning of the program according to the Treasurer. We would recommend that the Treasurer recreate the accounting for the Victims' Assistance fund as soon as possible. The Treasurer should include all entries in the accounting and develop the beginning fund balance for the current fiscal year. All entries should be supported by copies of the original source documents and posted to the Town's accounting system. The correct cash balance should be set up in the Victims' Assistance fund and reconciled to total cash in the bank. The Town should have its external auditor opine on the corrections.

TIMELY ACCURATE REPORTING TO THE STATE TREASURER

TIMELY FILING

CONDITION: All twelve of the State Treasurer's Revenue Remittance Reports for the period of May 1, 2005 through April 30, 2006 were not filed by the date of our fieldwork. According to the State Treasurer's Office, there have been no State Treasurer's Office Revenue Remittance forms filed since July 2003.

CRITERIA: South Carolina Code of Laws Section 14-1-208(B) states "The Town treasurer must remit ... the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month"

CAUSE: The Town Treasurer was unable to submit the reports in accordance with the requirements due to the cash flow considerations of the Town, personal medical leave issues and acts of God.

EFFECT: The Town did not comply with the law regarding the timeliness of filing.

AUDITORS' RECOMMENDATION

We recommend the Town implement procedures to comply with the timeliness of filing laws. This should be done in conjunction with the proper reporting of fines on a cash collected basis.

REQUIRED SCHEDULE OF FINES AND ASSESSMENTS

CONDITION: The Town has not had a financial audit since their financial statements for the year ended June 30, 2003 were audited. Since there has been no audit of the financial statements, the Town has not prepared and submitted the supplemental schedule of fines and assessments as required by State law.

CRITERIA: South Carolina Code of Laws Section 5-7-240 requires an annual independent audit of each municipality. In conjunction with the annual audit Section 14-1-208 requires the Schedule of Fines and Assessments to be audited and an opinion rendered in relation to the annual financial statement audit opinion.

CAUSE: The Treasurer has not had an opportunity to contract for an audit due to various personnel and job related issues.

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EFFECT: The Town has not complied with the law related to annual audits or the required schedule of fines and assessments.

AUDITORS' RECOMMENDATION

The Town should immediately contract for an audit and comply with the various laws related to financial responsibility.

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SECTION B - OTHER WEAKNESSES NOT CONSIDERED MATERIAL

The conditions described in this section have been identified as weaknesses subject to correction or improvement but they are not considered material weaknesses or violations of State Laws, Rules, or Regulations.

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TIMELY REPORTING BY THE CLERK OF COURT

CONDITION: The Excel-generated docket provided the treasurer every month was not signed off on by the judge or the Clerk of Court.

CRITERIA: Good internal control would include authorization of source documents to authenticate and authorize the document for further processing by the authorized official responsible for the documents accuracy and completeness.

CAUSE: The Town had never considered this as a need.

EFFECT: The proper authorization is not present on forms processed in the accounting system to authorize payments made based upon those documents.

AUDITORS' RECOMMENDATION

The Town should develop and implement control procedures to document authorization of payments made on behalf of the court system by the accounting office.

TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN

CONDITION 1: The Town Treasurer does not reconcile cash collected on fines from the receipts issued for payments on fines with the cash-basis revenue she posts to the fine revenue account from the deposit that is made.

CONDITION 2: Deposits are neither made timely nor is there a rational cutoff for receipting to coincide with a timely deposit. Deposits are made as much as two and a half months after the money was receipted.

CONDITION 3: Cash receipted for the procedures period as recorded in the receipt book was in excess of deposits made during the procedures period that represented those days' receipts.

CONDITION 4: The Town Treasurer does not properly account for the fine revenues when receipted. There is no liability established at the time the money is deposited to represent the balance owed for the State's portion of fine and assessment revenues.

CRITERIA: Good internal control requires reconciliations be done routinely to ensure accounts are properly posted and include correct amounts.

CAUSE: The Treasurer has not performed these reconciliations as needed.

EFFECT: The Town's financial records do not include timely, reconciled information with which they can make timely, relevant decisions. There is no reconciliation to determine if all of the revenues for fines were deposited as collected.

AUDITORS' RECOMMENDATION

The Town should design and implement accounting procedures to ensure timely reconciliations with the books and records.

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CORRECTIVE ACTION PLAN

Management has elected not to respond.