TOWN OF COWPENS MUNICIPAL COURT
COWPENS, SOUTH CAROLINA

State Auditor's Report
April 30, 2006

TOWN OF COWPENS MUNICIPAL COURT
COWPENS, SOUTH CAROLINA

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State of South Carolina

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December 1, 2006

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

The Honorable Teresa Chadwick, Clerk of Court
Town of Cowpens
Cowpens, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Cowpens 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,

Richard H. Gilbert, Jr., CPA
Deputy State Auditor

RHGjr/trb

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Private Companies Practice Section
South Carolina Association of CPAS
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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 Cowpens 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 for the fiscal year ended June 30, 2006. Teresa Chadwick, Clerk of Court for the Town of Cowpens 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 summarized the reports in accordance with the law.

Our finding is reported under "TIMELY REPORTING BY THE CLERK OF COURT" in the Accountants' Comments section of this report.

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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 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 findings are reported under "TIMELY 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 14-1-206(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 on page 39 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).

We found no exceptions as a result of the procedures.

4. TIMELY ACCURATE REPORTING TO THE STATE TREASURER INCLUDING REQUIRED FINANCIAL STATEMENT SCHEDULES IN ACCORDANCE WITH SECTION 14-1-208(E)

- We vouched the amounts reported in the State Treasurer Remittance Forms to Clerk of Court Remittance Forms for the period May 1, 2005 to April 30, 2006.

- We scanned the State Treasurer's Office 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 on page 39 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).

- The traced and agreed amounts in the supporting schedules to the Clerk of Court Remittance Forms or equivalents.

We found no exceptions as a result of the procedures.

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 and the Governor and is not intended to be and should not be used by anyone other than these specified parties.

July 11, 2006

ACCOUNTANTS' COMMENTS

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.

TIMELY REPORTING BY THE CLERK OF COURT

TIMELY FILING

CONDITION: Six of the twelve State Treasurer's Remittance Reports for the procedures' period of May 1, 2005 through April 30, 2006 were not timely filed. The delays ranged from three to fourteen days after the proscribed deadline.

CRITERIA: South Carolina Code of Laws Section 14-1-208(B) requires the City Treasurer to remit the balance of the assessments collected to the State Treasurer by the fifteenth day of the month.

CAUSE: The workload from time to time does not allow for timely filing.

EFFECT: The City Treasurer did not comply with South Carolina Code of Laws Section 14-1-208(B) reporting requirements.

RECOMMENDATION OR CORRECTIVE ACTION
The Town should develop and implement procedures to ensure reports are submitted in accordance with State law.

TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN

CHILD RESTRAINT AND SEAT BELT SOFTWARE PROGRAMMING

CONDITION: The Town's judge charges an assessment on child restraint and the seat belt violations and the town allocates the collections between fines and assessments.

CRITERIA: South Carolina Code of Laws Section 56-5-6450 and 6540 stipulate that no surcharges or assessments are to be assessed on child restraint and seat belt violations.

CAUSE: The software has not been modified to exclude child restraint and seat belt violations from the allocation.

EFFECT: The Town should be retaining 100% of those violations. The Town has over reported assessments on the State Treasurer's Revenue Remittance Form and has inappropriately allocated fine monies to Victim's Assistance Funds as well.

AUDITORS' RECOMMENDATION: We recommend the Town contract with the software vendor to modify the software to account for the seat belt and child restraint fines in accordance with the law. Once the vendor has made the modification to the software the Town should test it to ensure that it properly accounts for the fines before accepting the modification from the vendor. In addition, the Town should determine the extent of the error and make the necessary adjustments to its accounting system to properly distribute the fines in accordance with the law. This would include revising reports made to the State Treasurer's Office. These changes should occur as soon as possible.

ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

CONDITION: The Municipal Court Judge was not adhering to the Judicial Department minimum and maximum fine guidelines included in legislation. By not assessing the minimum and maximum fines as required in the legislation, the Town is not complying with 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 using obsolete fine guidelines.

EFFECT: The Town's fines related to Title 56-1-460 violations were not set at the minimum and maximum amounts set by the respective law.

AUDITORS' RECOMMENDATION: The Judge should use the most current fine guidelines.

CALCULATING ASSESSMENTS ON DUS PULL-OUTS

CONDITION: The Town's software does not properly account for the DUS Pull-Out when calculating assessments.

CRITERIA: South Carolina Code of Laws Sections 56-1-460 and Temporary Proviso 35.11 require that $100 of each fine imposed for Driving Under Suspension [**DUS**] be forwarded to the State Treasurer and that all fines have 107.5 percent added to that fine as an assessment. The law states that the pull-out is considered a fine for all calculation purposes.

CAUSE: The Town's software was treating the pull-out as a surcharge and as a result did not calculate assessments in accordance with the law.

EFFECT: The Town under reported assessments and over reported fine revenues. As a result of this error, the Town retained money that should have been submitted to the State.

AUDITORS' RECOMMENDATION
We recommend the Clerk of Court comply with the law related to calculating assessments on pull-out fines. The Town should have the software modified to correctly assess each fine according to the assessment percentage in Proviso 35.11 of the General Appropriations Act. The Town should ensure that each pull-out is included in the fine when it is assessed. The Town should test the modification to ensure that it properly accounts for the pullouts and surcharges before accepting the modification from the vendor. The Town should determine the extent of the error and make the necessary adjustments to its accounting system to properly distribute the fine in accordance with the law. This would include revising reports submitted to 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.

INSTALLMENT PAYMENTS ALLOCATION

CONDITION: The Town computer system does not automatically prorate installment payments across all fine, assessment and surcharge amounts. Instead, the program incorrectly splits partial payments into 50 percent for fines and 50 percent for everything else (i.e. assessments, law enforcement fees, collection charges and DUS pullouts).

CRITERIA: The Court Administration Memo from Robert L. McCurdy dated June 14, 2005 section VI.A.11 states, "When the fine and assessment are paid in installments, Section 35.11 … requires that 51.80722% of each installment be treated as a payment towards the assessment. The remaining 48.192771% is treated as a payment towards the fine. … Prior to making these computations, you must determine what other assessments may apply (conviction surcharge, DUI assessments, etc.). Those charges must be collected separately and not included in the percentage splits explained above."

CAUSE: The Town software is programmed to split partial payments 50 percent for fines and 50 percent for everything else

EFFECT: Fines, assessments and surcharges are not allocated as specified above. Prorated distribution of payments is essential to ensure all entity's interests are sharing in the payments and one entity does not fall short should payments cease before the fine is paid in full.

AUDITORS' RECOMMENDATION
The Town should determine if it is possible to prorate the payment in accordance with the law. Once determined, the Town should design and implement procedures to prospectively allocate partial payments. The Town should assess the effect of the error on current data and make a determination on the best course of action to bring past payments into compliance with the law.

CORRECTIVE ACTION PLAN

Management has elected not to respond.