

**COUNTY OF BAMBERG
GENERAL SESSIONS COURT
BAMBERG, SOUTH CAROLINA**

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

**COUNTY OF BAMBERG GENERAL SESSIONS COURT
BAMBERG, SOUTH CAROLINA**

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State of South Carolina



Office of the State Auditor

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DEPUTY STATE AUDITOR

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October 31, 2006

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

The Honorable James B. Hiers, Clerk of Court
Bamberg County General Sessions Court
Bamberg, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Bamberg County General Sessions 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

Independent Accountants' Report on Applying Agreed-Upon Procedures

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 County of Bamberg General Sessions 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. James B. Hiers, Clerk of Court for the County of Bamberg is responsible for compliance with the requirements for the General Sessions 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 14-17-750 to determine the definition of timely reporting with respect to the Clerk of Court's responsibility for reporting fines, fees and assessments to the County 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 County 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 County Treasurer in accordance with the law.

We found no exceptions as a result of the procedures.

2. TIMELY ACCURATE RECORDING AND REPORTING BY THE COUNTY

- We traced each month's reporting by the Clerk of Court to the County Treasurer's Office and to the County's general ledger accounts for the assessments (Sections 14-1-206(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 findings are reported under "TIMELY ACCURATE RECORDING AND REPORTING BY THE COUNTY" in the Accountants' Comments section of this report.

3. PROPER VICTIM'S ASSISTANCE FUNDS ACCOUNTING

- We inquired as to the format determined by County 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 48 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 14-1-206(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 14-1-206(B).
- We traced amounts recorded in the County's financial statement Schedule of Fines, Assessments and Surcharges on page 48 of the year ended June 30, 2005 report related to fines and assessments revenues reporting in accordance with Section 14-1-206(E) to supporting schedules used in the audit to comply with Section 14-1-206(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 finding is 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.

September 14, 2006

ACCOUNTANTS' COMMENTS

COUNTY OF BAMBERG GENERAL SESSIONS COURT
BAMBERG, SOUTH CAROLINA
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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 COUNTY

ALLOCATION OF INSTALLMENT PAYMENTS

CONDITION 1: State law requires defendants who are represented by a public defender or appointed counsel to pay \$500. The law requires this fee to be collected before any other fee. When payments are received by the County on an installment basis receipts are applied to a fine or assessment in a specified order of priority. The County has not assigned the public defender fine the top priority.

CRITERIA: Proviso 35.13 of the 2005 – 2006 General Appropriation Act states, "Every person placed on probation on or after July 1, 2005, who was represented by a public defender or appointed counsel, shall be assessed a fee of five hundred dollars. The revenue generated from this fee must be collected by the clerk of court and sent on a monthly basis to the Office of Indigent Defense to be divided between the Conflict Fund and the Defense of Indigents/Per Capita Fund administered by that office. This assessment shall be collected and paid over before any other fees."

CAUSE: The automated system used by the Clerk uses a priority order that applies fine, fee and assessment receipts to the first priority until that priority is fully paid. Once paid, it applies any remaining funds to the second and third priorities etcetera, until they are fully paid. The system has a built-in default for applying payments or the system manager can set a different order that is deemed more appropriate.

EFFECT: Indigent Defense fees are not collected and remitted to the Office of Indigent Defense in accordance with the law. The fee should be collected and paid before any other fines and assessments are paid.

AUDITORS' RECOMMENDATION

The County should develop and implement procedures to ensure compliance with Proviso 35.13.

CONDITION 2: The Clerk of Court's computer system is not programmed to allocate fines paid on an installment basis ratably to all fine, assessment and surcharge categories as required.

CRITERIA: The Judicial Department memo dated June 14, 2005 Section A.10 states "When the fine and assessment are paid in installments, Section 35.11 of the Temporary Provisions of the General Appropriations Act suspends Section 14-1-209(B) for the fiscal year 2005 - 2006 and 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. The fine amount must be further divided, with 56% of the amount being retained by the county, and 44% being remitted to the state. The assessment amount must further be divided, with 64.65% being transmitted to the state, and 35.35% being retained by the county for victims' services. 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 automated system used by the Clerk is not programmed to allocate costs, instead it uses a priority order that applies fine, fee and assessment receipts to the first priority until that priority is fully paid. Once paid, it applies any remaining funds to the second and third priorities etcetera, until they are fully paid. The system has a built-in default for applying payments or the system manager can set a different order that is deemed more appropriate.

EFFECT: The County is not in compliance with the Judicial Department's guidance in the memo related to Section 35.11 of the Temporary Provisions of the General Appropriations Act for the fiscal year 2005-2006.

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AUDITORS' RECOMMENDATION: We recommend the Clerk of Court meet with the software developer to determine if the current system can be modified to allocate installment payments as required by law.

CLERK OF COURT REMITTANCE FORM

CONDITION: The Clerk of Court has improperly combined the Law Enforcement surcharge and other line items from computer generated reports when completing the Clerk of Court Remittance Form that is sent to the County Treasurer. For example, General Sessions Surcharges, Boating Under the Influence [BUI], Drug Surcharges and Law Enforcement Surcharges are combined and reported as one line item total.

CRITERIA: Each individual line item on the State Treasurer's Revenue Remittance Form has a reporting purpose. Within the Code column of the form is a reference to the South Carolina Code of Laws that establishes the fine, fee, assessment or surcharge amount. The Forms instructions require accurate reporting of the relevant items in its specific line item.

CAUSE: The Clerk of Court did not understand the report format from the computer generated report or understand what the information reported on month end reports represented.

EFFECT: As a result, the Clerk of Court Remittance form, prepared by the Clerk, was not properly completed and did not accurately report information related to fines, fees and assessments collections.

AUDITORS' RECOMMENDATION: The County should immediately implement procedures to properly report prospectively each item as it is collected and summarized. The County should assess the probable under and over payments to the State and revise and resubmit State Treasurer's Revenue Remittance forms previously submitted.

PAYMENT OF THE STATE'S FINE PORTION

CONDITION: The Clerk of Court Remittance Form improperly included the fine revenue generated from General Sessions Court judgments as filing fees from Common Pleas

CRITERIA: South Carolina Code of Laws Section 14-1-205 states " ...fifty-six percent of all costs, fees, fines, penalties, forfeitures, and other revenues generated by the circuit courts and the family courts, except the seventy dollar filing fee prescribed in Section 8-21-310 (11)(a) must be remitted to the county in which the proceeding is instituted and forty-four percent of the revenues must be delivered to the county treasurer to be remitted monthly by the fifteenth day of each month to the State Treasurer on forms and in a manner prescribed by him."

CAUSE: The Clerk of Court did not properly complete the Clerk of Court Remittance Form.

EFFECT: The County Treasurer underreported amounts due to the State on line G of the State Treasurer's Revenue Remittance and overreported the fine revenue generated from Common Pleas on line H of the report.

AUDITORS' RECOMMENDATION: The County should provide the Clerk of Court training on how to properly use the information generated from the computer generated reports and how to properly complete the Clerk of Court Remittance Form. In addition, the Clerk of Court should determine the extent of the errors made and resubmit corrected copies to the County and State Treasurer

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PROPER VICTIM'S ASSISTANCE FUNDS ACCOUNTING

PROPER SURCHARGE RECOGNITION

CONDITION: The Clerk of Court has improperly recorded the General Sessions surcharge on the Clerk of Court Remittance Form. As a result, the County Treasurer has remitted money to the State Treasurer that should have been allocated to the Victims' Assistance fund.

CRITERIA: South Carolina Code of Laws Section 14-1-211(A)(1) states "In addition to all other assessments and surcharges, a one hundred dollar surcharge is imposed on all convictions obtained in general sessions court..." Section 14-1-211(B) 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."

CAUSE: The Clerk of Court was unsure of the software report format and what the amounts reported at month end represented. As a result, the reports submitted by Clerk to the County Treasurer did not accurately reflect the collections on the Clerk of Court Remittance form on the proper line.

EFFECT: The Victims' Assistance fund revenues were improperly reported on the State Treasurer's Revenue Remittance Form and those revenues were remitted to the State Treasurer instead of retained by the County.

AUDITORS' RECOMMENDATION: The Clerk of Court should immediately correct their procedures and prospectively report the amounts for fines and fees revenue generated by General Sessions Court on the proper line of the Clerk of Court Remittance form. The County should assess the probable over payments to the State and revise State Treasurer's Revenue Remittance forms previously submitted. The County should transfer the unreported amount to the Victims' Assistance fund.

TIMELY ACCURATE REPORTING TO THE STATE TREASURER

REQUIRED SCHEDULE OF FINES AND ASSESSMENTS

CONDITION: The County could not provide documentation reconciling the Schedule of Fines and Assessments to its general ledger. As a result, we were unable to verify the accuracy of the information included in the schedule. The reporting errors in the conditions above regarding the Clerk of Court Remittance Form have a direct effect on the accuracy of the data as well. In addition, the Schedule does not report the cumulative effect of the expenditures of Victims' Assistance funds and therefore reports a grossly inflated ending balance of Victims' Assistance funds at June 30, 2005.

CRITERIA: The South Carolina Code of Law section 14-1-206(E) requires "the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward" to be included in the Schedule.

CAUSE: The County did not retain a copy of the support documentation for the Schedule or retain information explaining how the Schedule was prepared.

EFFECT: The County has not complied with Section 14-1-206(E).

AUDITORS' RECOMMENDATION: The County should ensure that the Schedule of Fines and Assessments complies with the law when they issue their audited financial statement for June 30, 2006. The County should also retain documentation to support the information reported in the Schedule.

BAMBERG COUNTY
OFFICE OF THE CLERK OF COURT
POST OFFICE BOX 150
BAMBERG, SOUTH CAROLINA 29003

JAMES B. HIERS
CLERK OF COURT
AND REGISTER OF
MESNE CONVEYANCES

TELEPHONE
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CLINE BRANDT KOCHENOWER & CO
CERTIFIED PUBLIC ACCOUNTANTS
POST OFFICE BOX 848
GAFFNEY, SC 25242

SUBJECT: RESPONSE TO BAMBERG COUNTY CLERK OF COURT AUDIT

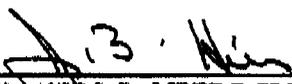
CONDITION 1. ALLOCATION OF INSTALLMENT PAYMENT.

RESPONSE: WE WERE USING THE PROGRAM PROVIDED TO US BY SMITH DATA PROCESSING. WE WERE NOT AWARE THAT THIS WAS INCORRECT.

CONDITION 2. ONCE AGAIN WE WERE USING PROGRAM PROVIDED BY SMITH DATA.

CONDITION 3&4 ON OCTOBER 16, 2006 , A NEW PROGRAM WAS SENT TO US FROM SMITH DATA CONTAINING THE PROPER PROGRAM INSTALLMENT WITH INDIGENT DEFENSE TO BE PAID FIRST AND OTHER PERCENTAGE PROPERLY ALLOCATED.

WE HAVE SCHEDULED A WORK SESSION WITH PERRY BURNETT OF SMITH DATA COMPANY FOR NOVEMBER 21, 2006 TO TRAIN US IN USING THE NEW PROGRAM THAT WE HAVE INSTALLED. THE COUNTY TREASURER, FAMILY COURT PERSONNEL, CLERK OF COURT AND OFFICE STAFF WILL BE IN ATTENDANCE FOR TRAINING.



JAMES B. HIERS, BAMBERG CLERK OF COURT

NOVEMBER 8, 2002