

**CITY OF LAMAR MUNICIPAL COURT  
LAMAR, SOUTH CAROLINA**

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

**CITY OF LAMAR MUNICIPAL COURT  
LAMAR, SOUTH CAROLINA**

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*State of South Carolina*



*Office of the State Auditor*

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RICHARD H. GILBERT, JR., CPA  
DEPUTY STATE AUDITOR

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September 13, 2006

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

The Honorable Sherrill Dorriety, Clerk of Court  
City of Lamar  
Lamar, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the City of Lamar 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

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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 City of Lamar 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. Sherrill Dorriety, Clerk of Court and Treasurer for the City of Lamar 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 CITY**

- We traced each month's reporting by the Clerk of Court to the Municipal Treasurer's Office and to the City'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 findings are reported under "TIMELY ACCURATE RECORDING AND REPORTING BY THE CITY" in the Accountants' Comments section of this report.

## **3. PROPER VICTIM'S ASSISTANCE FUNDS ACCOUNTING**

- We inquired as to the format determined by City 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 on page 24 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" 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 City's financial statement Schedule of Fines, Assessments and Surcharges on page 24 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.

June 27, 2006

**ACCOUNTANTS' COMMENTS**

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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 CITY**

MANUAL RECEIPT SYSTEM

**CONDITION 1:** Up until February 2006, the City used a manual receipt book to prepare its State Treasurer's Revenue Remittance Form. The Clerk/Treasurer did not properly account for fine, fees, and assessments in the City's general ledger or properly allocate total fine revenues to the correct fine, assessment, surcharges and pullouts categories in the monthly reports submitted to the State Treasurer.

**CRITERIA:** Section 73.3 of the fiscal year 2003-2004 Appropriation Act states, "(A) In addition ... a twenty-five dollar surcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates' or municipal court for misdemeanor traffic offenses or for non-traffic violations. No portion of the surcharge may be waived, reduced, or suspended." Section 73.3 further states, "The revenue collected pursuant to subsection (A) must be retained by the jurisdiction, which heard or processed the case and paid to the State Treasurer within thirty days after receipt." Section 33.7 of said Appropriation Act also states "(A) In addition, during Fiscal Year 2003-04, a one hundred dollar surcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in ...municipal court for misdemeanor or felony drug offenses. No portion of the surcharge may be waived, reduced, or suspended. (B) The revenue collected pursuant to subsection (A) must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days after receipt." The General Assembly also enacted Act 176 of 2004. The Act was effective February 18, 2004. It imposed an additional \$100 fine that is to be pulled out and sent to the State for violations of Title 56-1-460.

**CAUSE:** The Clerk/Treasurer who distributes the revenue generated from court fines, into fines, assessments, surcharges and pullouts categories did not properly account for law enforcement and drug surcharges or the recently enacted fine "pullouts". One reason this occurred is the judge was using a fine schedule from July 1, 2003 that had not been updated for the Title 56 pullouts and therefore did not initially assess the required total fine amount. Since the pullout cannot be waived, it must be broken out separately. Also the Clerk had not been to training to know how to account for the fines, assessments and pullouts.

**EFFECT:** The City did not report the pullouts and surcharges because the Clerk/Treasurer improperly allocated the revenue to areas that did not have a legal right to receive the revenue. In addition the portion of the surcharge that was allocated to the State, may have been distributed to agencies that were not entitled to receive the revenue or allocated to the proper agency but misclassified as another type of revenue.

We have determined that the pullouts, assessments and surcharges cannot be waived therefore the pullouts and surcharges have been assessed to the violators and it is a matter of allocating the pullouts, assessments and surcharges to the proper accounts in the proper amounts and percentages. As a result, this will reduce the amount of money allocated to the local fine and state and victim's assistance assessments. The amount involved has not yet been determined. The reallocation will create less fine revenue and assessments than previously reported and a liability for the surcharges and pullouts. The Victim's Assistance fund and the City general fund revenues were over reported as well as the amount of the State Assessments. The surcharges and pullouts were not reported at all.

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**AUDITORS' RECOMMENDATION**

The City should determine the extent of the errors and make the necessary adjustments to its previously filed remittance reports to properly distribute the pullouts and drug and law enforcement surcharges. These changes should occur as soon as possible. This would include revising reports previously submitted to the State Treasurer's Office. The City's external auditor should issue a separate report opining on the City's determination of its liability.

**CONDITION 2:** The City did not report every receipted fine payment.

**CRITERIA:** Section 35.11 of the fiscal year 2003-2004 Appropriation Act states, "The assessment paid pursuant to Sections ...14-1-208 ... for an offense tried in ... municipal court is increased from one hundred to one hundred seven and one-half percent of the fine imposed." Each year's court memo from the Judicial Department makes it clear that "This assessment also applies to municipal ordinances." [Robert McCurdy memo dated June 4, 2004 Section VI(A)(3)]

**CAUSE:** The City misinterpreted the law with respect to municipal ordinances. They thought the assessments and surcharges did not apply to municipal ordinances and therefore municipal ordinances did not need to be reported. The city also misunderstood that only traffic violations should be reported. Therefore, all non-traffic violations as well as municipal ordinances were being excluded from reporting.

**EFFECT:** The City retained all of the assessments, pullouts and surcharges on those fines because they did not report those fines as collected.

We have determined that the assessments, pullouts and surcharges cannot be waived therefore the assessments, pullouts and surcharges have been assessed to the violators and it is a matter of allocating the pullouts and surcharges to the proper accounts. As a result, this will reduce the amount of money allocated to the local fine revenue. The amount involved has not yet been determined. The reallocation will create less fine revenue and in turn less assessment than previously reported. A liability will be determined for the assessments on fines not reported, surcharges and pullouts. The City general fund fine revenues were over reported. The surcharges and pullouts were not reported at all.

**AUDITORS' RECOMMENDATION:** The City should determine the extent of the errors and make the necessary adjustments to its previously filed remittance reports to properly distribute the pullouts and drug and law enforcement surcharges. These changes should occur as soon as possible. This would include revising reports previously submitted to the State Treasurer's Office. The City's external auditor should issue a separate report opining on the City's determination of its liability.

**ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES**

**CONDITION:** The Municipal Court Judge was not adhering to the Judicial Department minimum fine guidelines included in legislation. By not assessing the minimum fines as required in the legislation, the City 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.

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**CAUSE:** The judge was using a suggested fine list from July 1, 2003. This list did not include the new fines that came into effect with the passage of Act 176 of 2004. The Act was effective February 18, 2004. It imposed an additional \$100 fine that is to be pulled out and sent to the State for violations of Title 56-1-460 among others.

**EFFECT:** The City's fines related to Title 56-1-460 violations were not set at the minimum amounts set by the respective law. The City is generally allowed to keep the "fine" portion of the total amount paid. When the City collects a smaller amount from the violators, it must reallocate according to the law. Thus the fine amount that the city keeps is reduced below the minimum, since the pullout is treated as a fine that must be pulled out and sent to the State Treasurer. The City should not have kept the pullout.

**AUDITORS' RECOMMENDATION:** The city should use the latest guidelines that are available and properly allocate pullouts.

**PROPER VICTIM'S ASSISTANCE FUNDS ACCOUNTING**

GENERAL LEDGER ACCOUNTING

**CONDITION:** The City does not maintain separate general ledger accounts for Victim's Assistance activity. Because there were no general ledger entries or separate fund the City cannot determine the amount of funds available for Victims' Assistance at any point in time. In addition, the City does not maintain a separate bank account for Victims' Assistance either.

**CRITERIA:** South Carolina Code of Laws Section 14-1-208(E)(4) 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 City should choose from generally accepted accounting principles when establishing a format to account for Victims Assistance.

**CAUSE:** The City was unaware that there were any regulations governing Victim's Assistance accounting.

**EFFECT:** The City's accounting records do not comply with the law in segregating, tracking and carrying forward balances related to Victim's Assistance. We have been told by the City's accounting staff and judge that they are unaware of the City expending any funds on Victim's Assistance. Therefore, the balance available for Victim's Assistance should be 100% of the money allocated to the program.

**AUDITORS' RECOMMENDATION:** Based on other findings, once the City determines the correct amount of assessments, the City should establish a separate fund for the Victim's Assistance program to account for all financial activity of the program.

**TIMELY ACCURATE REPORTING TO THE STATE TREASURER**

TIMELY REPORTING BY THE CITY

**CONDITION:** Eleven of the twelve State Treasurer's Revenue Remittance Reports for the procedures' period of May 1, 2005 through April 30, 2006 were not timely filed. The delays ranged from 18 to 208 days after the proscribed deadline.

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

**CAUSE:** The City was unaware that there were any deadlines proscribed in the law.

**EFFECT:** The City did not comply with Section 14-1-208(B) reporting requirements.

**AUDITORS' RECOMMENDATION:**

The City should develop and implement a policy to ensure compliance with State law. We also recommend that staff attend training sessions provided by the Judicial Department and the State Treasurer so they can be aware of changes in State laws governing the program.

SCHEDULE OF FINES AND ASSESSMENTS

**CONDITION 1:** The City has included a Supplementary Schedule of Fines and Assessments as required by law in each financial statement. The schedule reflects an accumulation of the amounts reported on the monthly State Treasurer's Revenue Remittance Forms. Based on the errors described in comments noted above, the amounts reported on the schedule were not complete.

**CRITERIA:** South Carolina Code of Laws Section 14-1-208(E) states "To ensure that fines and assessments imposed pursuant to this section and Section 14-1-209(A) are properly collected and remitted to the State Treasurer, the annual independent external audit required to be performed for each municipality pursuant to Section 5-7-240 must include a review of the accounting controls over the collection, reporting, and distribution of fines and assessments from the point of collection to the point of distribution and a supplementary schedule detailing all fines and assessments collected at the court level, the amount remitted to the municipal treasurer, and the amount remitted to the State Treasurer. [Emphasis Added]

**CAUSE:** The City did not have controls in place to ensure that fines and assessments imposed were properly assessed and remitted. See the "PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING" *General Ledger Accounting* and "TIMELY ACCURATE RECORDING AND REPORTING BY THE CITY" *Manual Receipt System* Condition 2 findings for more information.

**EFFECT:** The activity reported by City's in the Supplementary Schedule of Fines and Assessments was incomplete.

**AUDITORS' RECOMMENDATION:** The City should inform the auditor of the problems that existed. The City audit should include a review of controls that meets the requirements of the law.

**CONDITION 2:** The City's Supplementary Schedule of Fines and Assessments does not report the available balance for the Victims' Assistance program at the end of the year as required by law.

**CRITERIA:** South Carolina Code of Laws Section 14-1-208(D) states "The revenue retained by the municipality under subsection (B) must be used for the provision of services for the victims of crime including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16; ... All unused funds must be carried forward from year to year and used exclusively for the provision of services for victims of crime. All unused funds must be separately identified in the governmental entity's adopted budget as funds unused and carried forward from previous years." Code Section 14-1-208(E)(1)(f) discusses the specific requirements for information to be included in the schedule and states "the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward."

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**CAUSE:** The City was unaware that there were any regulations governing Victim's Assistance accounting.

**EFFECT:** We have established in previous findings that there are no separate financial accounting records maintained. Therefore the City does not know how much money is available to the program. In order to determine the current balance available to the program the City would need to identify every transaction related to the program and reconstruct the books of account

**AUDITORS' RECOMMENDATION:** Once the City determines the correct amount of assessments due Victim's Assistance, it should set up the proper accounting records to accumulate and carry forward the money according to the law.

# City of Lamar



*Bobby C. Hudson, Mayor*  
*Doris L. Byrd, Councilwoman*  
*Jackie L. Thomas, Councilman*  
*Steve L. Tallon, Councilman*  
*Guy D. Clements, Councilman*  
*Sherrill P. Dorriety, Clerk and Treasurer*

*Post Office Box 267*  
*Lamar, South Carolina 29069*  
*Phone (843) 326-5551 or 326-5552*  
*Fax (843) 326-5280*

August 6, 2006

Mr. Steve L. Blake, CPA, CFE  
Cline Brandt Kochenower & Co., PA  
1225 W. Floyd Baker Blvd.  
P.O. Box 848  
Gaffney, SC 29342

Dear Mr. Blake:

This is to advise Judge Carter has entered all fines. He did not enter the fines per month. Someone from Nicholson Business System who install Law Trak will be here Thursday September 14<sup>th</sup>. They will see if the Judge can go back and enter the fines per month and then do the report for each month.

Also, our understanding is that we will need to open up a Police account and a Victim's Assistance account.

Thanks for being so patience.

Sincerely,

*Sherrill P. Dorriety*  
Sherrill P. Dorriety  
Town Clerk