

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

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

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

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State of South Carolina



Office of the State Auditor

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December 1, 2006

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

The Honorable Gloria Rogers, Clerk of Court
City of Union Municipal Court
Union, South Carolina

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

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 Union 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. Gloria Rogers, Clerk of Court for the City of Union 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 75 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 City's financial statement Schedule of Fines, Assessments and Surcharges on page 75 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.



July 18, 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

ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

CONDITION: The Municipal Court Judge did not adhere 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 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.

CAUSE: The Judge was improperly rounding fines and suspending fines below the minimum.

EFFECT: The City's fines were not set at the minimum and maximum amounts set by the respective laws. Driving Under Suspension (**DUS**) was one fine we found to be suspended below the minimum routinely.

AUDITORS' RECOMMENDATION: The Judge should round fines within the guidelines. The judge should not suspend fines below the legal minimum mandated by law.

INSTALLMENT PAYMENTS ALLOCATION

CONDITION: The City computer system does not automatically prorate installment payments across all fine, assessment and surcharge amounts. Instead, the program uses a priority order.

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 City had not updated the computer tables used to calculate the proration for certain fine codes.

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 City should develop and implement procedures to update its software tables timely and review and test updates to ensure they are calculating amounts in compliance with the law. The City 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.

INSTALLMENT PAYMENTS COLLECTION FEE

CONDITION: The City has elected not to assess the 3% collection fee on all fines paid on an installment basis as mandated by law.

CRITERIA: South Carolina Code of Laws Section 14-17-725 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"

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CAUSE: The City has elected not to assess the mandated fee on all partial collections.

EFFECT: The City is not complying with Section 14-17-725 when they do not assess the 3% collection fee.

AUDITORS' RECOMMENDATION: We recommend the Clerk of Court comply with the law related to installment payments and collect the 3% as required by law.

ASSESSMENT CALCULATION

CONDITION: The City software incorrectly included restitution in the fine amount when it calculated the 107.5% assessment required by law.

CRITERIA: The Court Administration Memo from Robert L. McCurdy dated June 14, 2005 section VI.A.3 states, "Section 35.11 of the Temporary Provisions of the General Appropriations Act, which suspends Section 14-1-208 for the fiscal year 2005-2006, requires any person who is convicted of, pleading guilty or nolo contendere to, or forfeiting bond for an offense tried in municipal court on or after July 1, 2005 to pay an assessment in an amount equal to 107.5% of the fine actually imposed."

CAUSE: The City's software was not updated locally to correctly calculate assessments when restitution is also included as part of the collection. Human error resulted in the program improperly calculating the amount.

EFFECT: Assessments are calculated incorrectly. They are too high by the percentage charged against the restitution amount included in the calculation.

AUDITORS' RECOMMENDATION: The City should have the software modified to correctly calculate assessments based on fine revenue. The City should develop and implement procedures to update its software tables timely and review and test updates to ensure they are calculating amounts in compliance with the law. The City 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 City's external auditor should issue a separate report opining on the City's determination.

ACCURATE ALLOCATION OF SEATBELT FINES

CONDITION: The City's software allocates the child restraint and the seat belt violations to Law Enforcement surcharges rather than fine revenue.

CRITERIA: South Carolina Code of Laws Section 56-5-6450 and 6540 state that the \$25 is a fine.

CAUSE: The software table was locally programmed to treat the amount as Law Enforcement surcharge rather than fine.

EFFECT: The City is to retain 100% of those violations as fines. The City has over reported State assessments while under reporting fine revenues.

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AUDITORS' RECOMMENDATION: The City should have the software modified to correctly allocate the \$25 to fine revenue. The City should develop and implement procedures to update its software tables timely and review and test updates to ensure they are calculating amounts in compliance with the law. The City 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 City's external auditor should issue a separate report opining on the City's determination.

DRIVING UNDER THE INFLUENCE FINE CALCULATION/ALLOCATION

CONDITION: The City's software is not properly calculating the Driving Under the Influence (**DUI**) fine as required in the law. The calculation segregates amounts from the total fine that do not appear in the original legislation.

CRITERIA: South Carolina Code of Laws Section 56-5-2940 states "A person who violates a provision of Section 56-5-2930 or 56-5-2933, upon conviction, entry of a plea of guilty or of nolo contendere, or forfeiture of bail must be punished: (1) by a fine of four hundred dollars . . ." It further 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."

CAUSE: Human error occurred in updating programming tables at the local level.

EFFECT: These amounts, when segregated, cause the fine and assessments amounts to be miscalculated. These segregated amounts are not reported on the State Treasurer's Office Remittance Form because there are no lines available to report them. As a result, amounts that would normally be reported as fines and assessments are not reported at all and appear to be retained by the City.

AUDITORS' RECOMMENDATION: The City should have the software tables modified to correctly calculate the DUI fine. The City should develop and implement procedures to update its software tables timely and review and test updates to ensure they are calculating amounts in compliance with the law. The City 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 City's external auditor should issue a separate report opining on the City's determination.

PROPER VICTIM'S ASSISTANCE FUNDS ACCOUNTING

CONDITION: Victims' Assistance revenues are not properly calculated and accumulated.

CRITERIA: South Carolina Code of Laws Section 14-1-208(B) and (D) determine the ratio in which the monies generated from the assessment are split between the State and Victim's Assistance.

CAUSE: The software programming issues discussed in each of the findings above.

EFFECT: Assessments were improperly calculated on a number of fines given the above findings. Victims' Assistance revenues are directly determined by the amount of the assessments.

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AUDITORS' RECOMMENDATION: The City should determine the extent of the error and make the necessary adjustments to its accounting system to properly distribute the correct assessments in accordance with the law.

TIMELY ACCURATE REPORTING TO THE STATE TREASURER

TIMELY FILING

CONDITION: Five State Treasurer's Revenue Remittance Reports for the procedures period of May 1, 2005 through April 30, 2006 were not timely filed. The City did not have a formal policy to document its compliance with timely filing laws. The reports were from one to five days late.

CRITERIA: South Carolina Code of Laws Sections 14-17-750 and 14-1-208(B) require that the Clerk make a full and accurate statement, in writing, to the City Auditor and Treasurer, of all monies collected on account of licenses, fines, penalties and forfeitures during the past month, on the first Wednesday or within ten days thereafter, in each successive month. Section 14-1-208(B) states "The city treasurer must remit ... the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month"

CAUSE: The City did not file the reports timely and has no procedure in place to substantiate timely filing other than the date it puts on the form.

EFFECT: The City did not comply with the law regarding the timely filing.

AUDITORS' RECOMMENDATION: We recommend the city implement procedures that document and ensure compliance with the timeliness of filing laws.

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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 ACCURATE REPORTING TO THE STATE TREASURER

CONDITION: The City has transposed line items in the State Treasurer's Revenue Remittance Form. The City has reported Line N amounts in Line O and vice versa.

CRITERIA: Instructions for the State Treasurer's Revenue Remittance Form state which revenues should be reported in which lines.

CAUSE: The preparer of the form incorrectly reported the revenues in those lines.

EFFECT: Since both of those lines are Victims' Assistance monies and accrue to the same entity, there was no monetary effect.

AUDITORS' RECOMMENDATION: Amounts should be reported in the proper line items according to the instructions. The City should implement procedures to ensure accuracy in reporting its revenues to the State Treasurer.

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Management has elected not to respond.