

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

**State Auditor's Report on Applying
Agreed-Upon Procedures
March 31, 2007**

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

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State of South Carolina



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October 23, 2007

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

The Honorable Marlene Marchyshyn, Clerk of Court
Town of Brunson
Brunson, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Brunson Municipal Court System for the period April 1, 2006 through March 31, 2007, 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 Town of Brunson Municipal Court System and to assist the South Carolina Office of the State Auditor in complying with the 2006 - 2007 General Appropriations Act (H. 4810) Section 72.80. Marlene Marchyshyn, Clerk of Court for the Town of Brunson, 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 2006 - 2007 General Appropriations Act (H. 4810) Section 72.80. 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 April 1, 2006 to March 31, 2007 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 assistance surcharge (Section 14-1-211) for the period April 1, 2006 – March 31, 2007.
- 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 2006 – 2007 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 TOWN" in the Accountants' Comments section of this report.

3. PROPER VICTIM 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 December 31, 2006 audited Victim Assistance Fund fund balance with all adjustments to the fund balance shown in the Schedule of Fines, Assessments and Surcharges of the audited financial statement on page 31 and to the beginning fund balance as adjusted in that fund for fiscal year 2007.
- We judgmentally selected a sample of Victim Assistance Fund reimbursable expenditures and verified that these expenditures were in compliance with Section 14-1-208(E) and Section 14-1-211(B).

Our findings are reported under "PROPER VICTIM 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 April 1, 2006 to March 31, 2007.
- 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 December 31, 2006 report related to fines and assessments revenues reporting on page 31 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 March 31, 2007 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 Governor, Chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, members of the Brunson Town Council, Town clerk of court, Town treasurer, State Treasurer, State Office of Victim Assistance, Chief Justice and the Office of the State Auditor and is not intended to be and should not be used by anyone other than these specified parties.



June 21, 2007

ACCOUNTANTS' COMMENTS

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VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS

Management of the entity is responsible for establishing and maintaining internal controls to ensure compliance with State Laws, Rules or Regulations. The procedures agreed to by the entity require that we plan and perform the engagement to determine whether any violations of State Laws, Rules or Regulations occurred.

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

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TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN

ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

CONDITION: The Municipal Court Judge was not adhering to the Judicial Department minimum/maximum fine guidelines included in the laws.

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

CAUSE: The Judge did not use the current Judicial Department's fine guidelines.

EFFECT: By not assessing the minimum fines as required in the legislation, the Town is violating the law.

AUDITORS' RECOMMENDATION: We recommend that the Town comply with the fine guidelines.

INSTALLMENT PAYMENT COLLECTION FEE

CONDITION: The Town 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.... "

CAUSE: The Town was unaware of the required 3% collection fee on partial payments.

EFFECT: The Town 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% fee as required by law.

MANUAL SYSTEM OMISSIONS

CONDITION: The Clerk processes approximately 10 violations per month. No DUI assessments, DUI surcharges, DUS or DUI pullouts are tracked with their manual system. The Town had at least one DUI in the procedures period. The Town assesses the law enforcement surcharge, but accounts for it as a conviction surcharge. The Town has never assessed a conviction surcharge.

CRITERIA: South Carolina Code of Laws Section 14-1-211(A)(2) states, "A one hundred dollar surcharge is imposed on all convictions pursuant to Section 56-5-2930"... which are convictions of "operating a motor vehicle while under influence of alcohol".

South Carolina Code of Laws Section 14-1-211(A)(1) states, "A twenty-five dollar surcharge is imposed on all convictions obtained in municipal court" and "the surcharge must not be imposed on convictions for misdemeanor traffic offenses. However, the surcharge applies to all violations of Section 56-5-2930 and Section 56-5-2933" which are convictions of "operating a motor vehicle under the influence of alcohol".

South Carolina Code of Laws Section 56-1-460(C) 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."

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South Carolina Code of Laws Section 56-5-2940(1) 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."

South Carolina Code of Laws Sections 56-5-2995 states that an "additional assessment on persons convicted of driving under influence ...of twelve dollars must be added" and "remitted to the State Treasurer."

CAUSE: The Clerk allocates the fines manually and lacks training in how to properly account for and allocate fines.

EFFECT: The Town did not report assessments correctly to the State because it did not allocate the assessments properly to pullouts, assessments and surcharges. The Town kept all of the law enforcement surcharges. It recorded some of the revenue in the victim's assistance fund and some in the town's general fund. The pullouts were retained by the town as fines.

AUDITORS' RECOMMENDATION: The Town should design and implement procedures to ensure all local ordinance collections are reported on the State Treasurer's Revenue Remittance form to comply with State law. The Town should calculate the amount due to the State and record a liability for prior year's collections that were not reported. The Town should have their external auditor certify the liability in their next external audit.

FAILURE TO REMIT LOCAL ORDINANCE COLLECTIONS TO THE STATE

CONDITION: The Town does not report local ordinance fines on the State Treasurer's Revenue Remittance Form.

CRITERIA: Section 35.11 of the fiscal year 2005-2006 Appropriation Act states, "The assessment paid pursuant to Sections ...14-1-208 ... for an offense tried in ... municipal court is ... 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 30, 2006 Section VI (A) (3)]

CAUSE: The Town did not realize that local ordinance fine collections must be reported on the State Treasurer's Revenue Remittance Form.

EFFECT: The Town retained all of the assessments, pullouts and surcharges on local ordinances.

AUDITORS' RECOMMENDATION: The Town should design and implement procedures to ensure all local ordinance collections are reported on the State Treasurer's Revenue Remittance form to comply with State law. The Town should calculate the amount due to the State and record a liability for prior year's collections that were not reported. The Town should have their external auditor certify the liability in their next external audit.

PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING

LACK OF AN EXPENDITURE ALLOCATION PLAN

CONDITION 1: The Town spent \$846.05 from the Victims Assistance Fund on police uniforms, patches and hats; a computer for the police chief; radios and radio repair; and a camera for the police car. No allocation plan exists for charging expenditures to the Victim Service Fund. Since the Victims Advocate performs duties related to non-victims' assistance functions as well, the costs should be allocated to the benefiting departments.

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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."

CAUSE: The Town's Police Chief is the only law enforcement officer for the Town. He also serves as the Town's Victims' Advocate. Although all charges were related to the Victim Advocate, that is not the only function benefiting from the charges.

EFFECT: The Town is charging expenditures to the Victims' Assistance program that benefit other departments instead of allocating the cost equitably to all of the benefiting departments.

AUDITORS' RECOMMENDATION: The Town should develop and implement an allocation plan that will fairly allocate the costs of goods and services to all benefiting departments.

CONDITION 2: The Town used Victim Assistance funds on unallowable continuing education for the municipal judge.

CRITERIA: The South Carolina Victim Assistance Network has suggested a list of 16 tier 1 items qualifying as direct victim services expenditures. This list is supplied as Attachment L in the Judicial Department memo from Robert McCurdy dated June 20, 2006 for the 2006-2007 fiscal year. This list gives authoritative examples of allowable costs per Article 15, Title 16 of the South Carolina Code of Laws.

CAUSE: The Police Chief did not follow the guidance when determining how to spend the monies in the Victim Assistance Fund.

EFFECT: The Town incorrectly charged expenditures to the Victim Assistance fund.

AUDITORS' RECOMMENDATION: The Town should obtain the South Carolina Victim Assistance Network approved list and become familiar with its contents to ensure the expenditure is properly chargeable to the Victim Assistance Fund. Unless the Town can provide additional support documenting that the expenditure met the criteria of the South Carolina Victim Assistance Network approved list the Town should reimburse the Victim Assistance Fund.

LACK OF PROPER ACCOUNTING

CONDITION 1: The Town did not accurately and consistently record victim assistance fund revenue in their general ledger.

CRITERIA: South Carolina Code of Laws Section 14-1-208 (B) states "The city treasurer must remit ... the assessment ... to the municipality to be used for the purposes set forth in subsection (D)" and 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...."

CAUSE: The Town uses a manual system to assess fines and determine the amount that goes to the State, the Town and the Victim Assistance fund.

EFFECT: The Town's Victim Assistance records are not accurate.

AUDITORS' RECOMMENDATION: The Town should design and implement a system that will prospectively keep accurate records. The Town should determine the amounts that should have been reported to Victim Assistance in the past and correct any inaccurate accounting entries to determine the correct balance of funds to carry forward.

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CONDITION 2: The Town reports the law enforcement surcharges as conviction surcharges.

CRITERIA: South Carolina Code of Laws Section 14-1-208 (B) states "The city treasurer must remit ... the assessment ... to the municipality to be used for the purposes set forth in subsection (D) ..." and 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...."

CAUSE: The Town uses a manual system to assess fines and determine the amount that goes to the State, the Town and the Victim Assistance fund.

EFFECT: The Town's Victim Assistance records are not accurate.

AUDITORS' RECOMMENDATION: The Town should design and implement a system that will prospectively keep accurate records. The Town should determine the amounts that should have been reported to Victim Assistance in the past and correct any inaccurate accounting entries to determine the correct balance of funds to carry forward.

TIMELY ACCURATE REPORTING TO THE STATE TREASURER

REQUIRED SUPPLEMENTAL SCHEDULE OF FINES AND ASSESSMENTS

CONDITION: The Supplementary Schedule of Fines and Assessments, which was prepared by an independent external auditor and submitted to the State, did not include all information that is required by law to be in the schedule. The schedule was listed in the notes section of the audit and not as required supplemental information. It did not list assessments separately. It also did not list victim's assistance revenues by source.

CRITERIA: South Carolina Code of Laws Section 14-1-208(E) requires that the municipality have an audited supplementary schedule indicating all fines and assessments collected by the municipal court, the amount of the fines and assessments retained by the Town Treasurer and the amount of fines and assessments remitted to the State Treasurer, and the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward.

CAUSE: The Town relied on the independent auditor to include all required information on the schedule.

EFFECT: The Supplementary Schedule of Fines and Assessments did not comply with the law.

AUDITORS' RECOMMENDATION: Because the Town is responsible for the schedule, they should ensure their schedule complies with State law.

ACCURACY IN FILED REMITTANCE REPORTS

CONDITION: Because of manual system omissions, the Revenue Remittance forms that were submitted during the procedures period were not accurate.

CRITERIA: South Carolina Code of Laws Section 14-1-208(B) states the Town Treasurer must "remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner proscribed by the State Treasurer."

CAUSE: The Town allocates the fines manually and lacks training in how to properly complete the monthly remittance forms.

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EFFECT: The Town has not reported the correct amounts to the State for law enforcement surcharges, DUI assessments, DUI surcharges, DUS pullouts, DUI pullouts or for victim assistance.

AUDITORS' RECOMMENDATION: The Town should determine the cumulative effect of the errors made, contact the State Treasurer's office and correct as instructed.



**Town of Brunson
P.O. Box 300
Brunson, SC 29911
(803) 632-3633**

The Town of Brunson will comply with the current Judicial Department Fine guidelines. The Town was unaware of the 3% collection fee allowed for all fines paid on an installment basis and does intend to start enforcing this fee. The Town also intends to design and implement procedures to ensure that all local ordinance collections are reported on the State Treasurers Revenue Remittance form in order to comply with State laws. The Town will develop and implement an allocation plan that will allocate the cost of goods and services to all benefiting departments and will also comply with the allowable funds as listed in the "Attachment L". The Town is now using the QuickBooks program to record all transactions through the Municipal and Victims Assistance accounts and intends to design and implement a system that will prospectively keep accurate records. The Town will ensure that the external auditor prepare the Supplementary Schedule of Fines and Assessments as required to be in compliance with the law. The Town of Brunson will work diligently to determine the amount that should have been reported to the Victim Assistance in the past and make any corrections that are necessary, and, will also contact the State Treasurers office to correct the amounts owed for DUI and DUS surcharges, assessments, and pullouts, and, have the external auditor certify the liabilities in our next external audit.