

**TOWN OF FORT MILL MUNICIPAL COURT
FORT MILL, SOUTH CAROLINA**

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

**TOWN OF FORT MILL MUNICIPAL COURT
FORT MILL, SOUTH CAROLINA**

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State of South Carolina



Office of the State Auditor

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October 6, 2006

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

The Honorable Nancy Butler, Clerk of Court
Town of Fort Mill
Fort Mill, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Fort Mill 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 Town of Fort Mill 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. Nancy Butler, Clerk of Court for the Town of Fort Mill 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 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 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 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 14-1-208(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 62 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

- 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 Town's financial statement Schedule of Fines, Assessments and Surcharges on page 62 of the year ended September 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, the Chief Justice and the Governor and is not intended to be and should not be used by anyone other than these specified parties.

August 16, 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 TOWN

SOFTWARE PROGRAMMING OF THE CONVICTION SURCHARGE

CONDITION: Since October 2005 the Town has used the Judicial Department sponsored software to allocate revenue collected from court fines, fees, and assessments. The Town had the software fine table loaded by the county but due to a programming error the table did not classify local ordinances properly. The program treated local traffic violations as criminal fines instead of local ordinance violations and as a result the violations were assessed a conviction surcharge.

CRITERIA: South Carolina Code of Laws Section 14-1-211(A)(1). This section states "In addition to all other assessments and surcharges, ... a twenty-five dollar surcharge is imposed on all convictions obtained in ... municipal court in this State. 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. No portion of the surcharge may be waived, reduced, or suspended."

CAUSE: The software fine table was not properly programmed to account for the local ordinances.

EFFECT: For the two month's tested we found the Town had improperly allocated a total of 73 conviction surcharges. The 73 improperly allocated surcharges totaled \$1,825. The surcharges were allocated directly to Victims' Assistance. As a result \$879.52 was under allocated to the Town and \$839.97 was under allocated to the State. The Victims' Assistance fund should have been allocated only \$105.51.

AUDITORS' RECOMMENDATION

We recommend the Town contact the software programmer to modify the software to account for fine correctly. Once the programmer has made the modifications to the software the Town should test them to ensure that they properly account for the surcharges before accepting the modification from the programmer. In addition, the Town should determine the extent of the errors and make the necessary adjustments to its accounting system to properly distribute the fine revenue. This would include revising reports made 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.

MANUAL SYSTEM PULLOUT, SURCHARGE AND OTHER OMISSIONS

CONDITION: Before October 2005 the Town had used a manual system to allocate revenue collected from court fines, fees, and assessments. The Town had the Clerk list all the collections from the docket book and reconcile those with the monthly collections. The Clerk then distributed the payments across a handwritten spreadsheet coding each applicable item to be allocated. The Clerk did not properly allocate payments to the Drug Court Surcharge or the DUS Pullout. In one instance the Clerk over allocated Drug Surcharges to a case that should not have received any allocation. In addition, the Town's finance officer would also use an Excel spreadsheet to calculate ratios using State Treasurer's Revenue Remittance Form formulas and would manually add the Clerk-prepared spreadsheet before inputting the data to the Excel spreadsheet. From our test procedures we noted one occasion where the finance officer omitted one page which contained \$2,052.50 in collections.

CRITERIA: 2005 - 2006 General Appropriations Act (H. 3716) Section 33.7; South Carolina Code of Laws Section 14-1-208(B) and Section 56-1-460(C). Section 33.7 states, "In addition ... 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. 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

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Safety for the Highway Patrol." Section 14-1-208(B) states, "The Town's treasurer must ... make reports on a form and in a manner prescribed by the State Treasurer." The State Treasurer requires all receipts be reported monthly. He also requires it be reported by each type of surcharge, pullout and assessment as listed in the State Treasurer's Revenue Remittance Form.

CAUSE: The clerk did not always allocate revenue collected to the proper category and in one instance did not report everything collected.

EFFECT: We reconciled receipts to daily deposits made from the cashiers reports, and while reconciling the receipts found the Clerk had inadvertently omitted \$2,052.50 from the monthly remittance report. This was the only omission we found. We also found three cases during our test where the Drug Surcharge and Driving Under Suspension [**DUS**] Pullouts had not been properly allocated. That is, \$300 was improperly allocated to fines and assessments rather than to the surcharge and pullouts.

AUDITORS' RECOMMENDATION

We recommend the Town review its history of manual cases for these specific fines for the last three years (36 months) and determine the amount of pullouts and surcharges improperly allocated to fines and assessments revenues.

ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

CONDITION: A former Municipal Court Judge was not adhering to the Judicial Department minimum/maximum fine guidelines included in legislation. By not assessing the minimum/maximum fines as required in the legislation, the Town is violating the law.

CRITERIA: Judicial Department Guidelines for Fines – Minimums and Maximums. These guidelines are established by the minimum and maximum fines identified in the respective legislations.

CAUSE: The judge had made some manual calculations for certain fines and had miscalculated the penalty. The Town had used the judge's until the new software was installed. In some instances the judge simply did not charge a fine at all. Only the surcharges were charged when the defendant was found guilty but no minimum fine was charged.

EFFECT: The Town's fines were not set at the maximum amounts set by legislation. The judge had overcharged based on the maximum fines allowed by law.

AUDITORS' RECOMMENDATION

We recommend the Judges ensure that they properly charge fines between the legislated minimum and maximums.

TIMELY ACCURATE REPORTING TO THE STATE TREASURER

TIMELY REPORTING BY THE TOWN

CONDITION: Four State Treasurer's Revenue Remittance Reports for the procedures period of May 1, 2005 through April 30, 2006 were not timely filed. The Town finance office would remit amounts collected the following month if the reports were going to be late. Therefore the reports were each thirty days late.

CRITERIA: South Carolina Code of Laws Section 14-17-750 and 14-1-208(B). Section 14-17-750 requires that the Clerk make a full and accurate statement, in writing, to the Town Auditor and Treasurer, of all monies collected on account of licenses, fines, penalties and forfeitures during the

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past month, on the first Wednesday or within ten days thereafter, in each successive month. Section 14-1-208(B) states "The Town treasurer must remit ... the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month"

CAUSE: The Town finance officer did not submit the remittance forms on time.

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

AUDITORS' RECOMMENDATION: We recommend the Town comply with the timeliness of filing laws.

REQUIRED SUPPLEMENTARY SCHEDULE OF FINES AND ASSESSMENTS

CONDITION: The Town financial statement contained the required schedule of fines and assessments. However the schedule did not reconcile to the general ledger. In addition, none of the amounts agreed to the actual amounts reported on the State Treasurer's Revenue Remittance Forms either.

CRITERIA: South Carolina Code of Laws Section 14-1-208(E). This section 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 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. "

CAUSE: The Town's auditor had created the schedule by inputting each receipt for the year in a spreadsheet. The auditor did not reconcile the schedule to the general ledger or to the State Treasurer's Remittance Forms.

EFFECT: The Schedule of Fines and Assessments bore no relation to the information in the general ledger or in the State Treasurer's Revenue Remittance Forms for fine and assessment revenues. Total receipts reported on the schedule were understated by \$1,435 when compared to the general ledger. In addition, the auditor had incorrectly allocated money from fine and assessment to surcharges. The auditor incorrectly calculated and reported the remittance amount as over remitted by \$8,816 when in fact it was not. In effect, the schedule cannot be relied upon with the exception that the Victims' Assistance fund balance did agree.

AUDITORS' RECOMMENDATION

We recommend the Town be responsible for the Schedule. The town should ensure that the schedule is reconciled to the general ledger. The numbers reported in the schedule should be those from the books and records of the town and not the representation of anyone else.



TOWN OF FORT MILL

October 17, 2006

Mr. Steve Blake CFE, CPA
PO Box 848
Gaffney, SC 29342

Dear Mr. Blake:

The Town of Fort Mill is in receipt of the state audit report dated April 30, 2006 and wish to offer the following as the Town's Corrective Action Plan.

Timely Accurate Recording and Reporting by the Town

Software Programming of the Conviction Surcharge

- While the Town used a combination of manual and computerized calculations in the past, now we are using a state-provided software program that distributes the funds in the correct categories. There was a glitch that was discovered during the state audit process that has since been corrected. The corrected version has been tested by the Clerk of Court (Nancy Butler) and found to be in order. *The Town will explore the option of an outside firm assisting with determining the extent of the error for a period of not more than three (3) years should the State Treasurer's Office deem it necessary.*

Manual System Pullout, Surcharge and Other Omissions

- During the time when the Town was utilizing the manual system, the finance director relied heavily on the clerk of court for the proper classification of the fines, fees and assessments. The monthly reports consisted of numerous pages of hand-written documentation. The finance director totaled the pages to get the amounts to be distributed for the month. One page was missed during the summation process, causing \$2,502.50 not to be considered. *The Town will explore the option of an outside firm assisting with determining the extent of the error for a period of not more than three (3) years should the State Treasurer's Office deem it necessary.*

Adherence to Judicial Department Fine Guidelines

- The judge is hired and managed by the Town Council. Some general discussion between the town manager and the judge took place once some of these inconsistencies surfaced. Will forward findings to the Mayor for further instruction and direction to the judge.

Timely Accurate Reporting to the State Treasurer

Timely Reporting by the Town

- The finance director made decisions about the timeliness of reporting based on the State's deadline of the 15th of the month. If she did not get the state remittance form faxed by the close of the business day on the 15th of the month, the report was considered late and therefore, in the cases cited, the remittance was submitted with the next month's reporting. Since moving to the computerized version, reporting has been simplified

tremendously. The finance director is submitting reports either on or before the 15th of the month.

Required Supplementary Schedule of Fines and Assessments

- The Town shared reporting information with the external auditor to aid in the establishment of the schedule. We believed the external auditor to be using this information until the fiscal year ending September 30, 2006. The audit schedule revealed a discrepancy of more than \$8,000. The Town had no time to review and research or to discuss external auditor's finding in advance of the final audit presentation. It was determined through the state audit that the schedule prepared by the external auditor was incorrect due to some assumptions that were made on their part with no consultation with Town management. The Town issued a Request for Proposals (RFP) for audit services for FY 2007-2009. The auditing firm has been selected and guidelines will be discussed with the new firm to ensure that the Town takes ownership of the audit schedule and that the schedule does agree and can be tied back to the general ledger.

It is the Town's desire to comply with the state law regarding the collection and remittance of court fines, fees and assessments. Moving forward, we will do our best to meet all guidelines and deadlines. Further, we respectfully request your consideration in forgiving any amount(s) deemed non-substantial resulting from the inaccurate reporting over the last three (3) years as we feel, based upon the amount of detailed work involved, it would pose a hardship on the Town as well as call for additional work for the State.

Should you have questions or need additional information, please feel free to contact Chantay Bouler, Finance Director at (803) 547-2034 or me at (803) 547-2116 weekdays between the hours of 8:30 a.m. – 5:00 p.m.

Sincerely,



David E. Hudspeth
Town Manager