

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

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**State Auditor's Report on Applying  
Agreed-Upon Procedures  
June 30, 2008**



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

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*State of South Carolina*



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February 12, 2009

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

The Honorable Troy Bivens, Mayor  
Town of Gaston  
Gaston, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Gaston Municipal Court System for the period July 1, 2007 through June 30, 2008, 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 Town of Gaston Municipal Court System and to assist the South Carolina Office of the State Auditor in complying with the 2007-2008 General Appropriations Act (H. 3620) Section 72.75. Troy Bivens, Mayor for the Town of Gaston, 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 2007-2008 General Appropriations Act (H. 3620) Section 72.75. 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 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 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 July 1, 2007 through June 30, 2008 to determine if the Clerk of Court submitted the reports to the Treasurer in accordance with the law.

Our finding is reported under "TIMELY ACCURATE RECORDING AND REPORTING BY THE CLERK OF COURT" in the Accountants' Comments' section of this report.

## **2. TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN**

- We traced each month's reporting by the Clerk of Court to the 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 July 1, 2007 through June 30, 2008.
- 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 2007 – 2008 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 June 30, 2007 audited Victim Assistance Fund fund balance with all adjustments to the fund balance shown in the Supplemental Schedule of Fines and Assessments of the audited financial statement and to the beginning fund balance as adjusted in that fund for fiscal year 2008.
- 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 July 1, 2007 through June 30, 2008.
- 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 Supplemental Schedule of Fines and Assessments of the year ended June 30, 2007 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.

#### 5. STATUS OF PRIOR FINDINGS

- We tested the Town's responses to the findings of the State Auditor's Report on Agreed-upon Procedures for the procedures period April 30, 2006, and dated October 15, 2006.

The results of our procedures are reported in "STATUS OF PRIOR FINDINGS" 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 June 30, 2008 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 Gaston 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.



August 21, 2008

**ACCOUNTANTS' COMMENTS**

**TOWN OF GASTON MUNICIPAL COURT  
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**SECTION A - 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 REPORTING BY THE CLERK OF COURT**

TIMELY FILING

**CONDITION:** The Clerk of Court and Treasurer have no procedure in place or policy to document timeliness of reporting.

**CRITERIA:** South Carolina Code of Laws Sections 14-1-208 (A) states "...This assessment must be paid to the Municipal Clerk of Court and deposited with the city treasurer for remittance to the State Treasurer..." Section 14-1-208(B) states further "The city treasurer must remit 12 percent of ... the assessment ... to the municipality and remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month .... Assessments paid in installments must be remitted as received."

**CAUSE:** The Clerk of Court and Treasurer have not developed a policy to document timeliness.

**EFFECT:** Because there is no procedure to document timeliness, vesting responsibility for timely filing is difficult.

**AUDITORS' RECOMMENDATION:** The Town should develop and implement a policy whereby they comply with State law and document the compliance.

**TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN**

ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

**CONDITION:** The Municipal Court Judge did not adhere to the Judicial Department minimum/maximum fine guidelines included in the respective laws on one fine levied. A similar finding was noted in the State Auditor's Report for the procedures period ended April 30, 2006 and dated October 5, 2006.

**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 Judge comply with the state law by using the correct minimum/maximum fine guidelines.

RECEIPT OMISSIONS

**CONDITION 1:** The Town did not enter any receipt for fine payments into its computer system during the procedures period in a timely manner. Furthermore the Town did not make timely remittances to the State Treasurer.

**CRITERIA:** South Carolina Code of Laws Section 14-1-208 (B) states "The city treasurer must remit 12 percent of ... the assessment ... to the municipality and remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month .... "Assessments paid in installments must be remitted as received."

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**CAUSE:** The Clerk did not enter receipts into the computer system.

**EFFECT:** By not timely inputting collections into the computer system, monthly collections are incomplete. Therefore, monthly remittance forms, while not filed timely, were also not complete and did not represent all collections for the given month.

**AUDITORS' RECOMMENDATION:** The Town should develop and implement procedures to ensure timely recording of accounting transactions. We also recommend the Town implement procedures to ensure timely remittance of fines to the State Treasurer.

**CONDITION 2:** The Town stopped submitting reports to the State Treasurer when they discontinued the operation of their court system in January 2008. However the Town continued to receive installment payments on prior adjudicated fines. The Town did not report the receipt of funds to the State Treasurer.

**CRITERIA:** South Carolina Code of Laws Section 14-1-208 (B) states "Assessments paid in installments must be remitted as received."

**CAUSE:** The Clerk did not enter receipts into the computer system or prepare the monthly Treasurer reports.

**EFFECT:** By not properly accounting for and reporting the court fines the Town was not in compliance with State law.

**AUDITORS' RECOMMENDATION:** The Town should determine the collections receipted since it discontinued the municipal court in January. The Town should determine the amount due to the State and remit the amount due as soon as possible. The Town should also determine the amount due to Victim Assistance and transfer the money to the Victim Assistance account.

**IMPROPER CLASSIFICATION OF VIOLATION**

**CONDITION 1:** The charge for "Open Container" violations were not properly allocated between fines, assessments and surcharges. A similar finding was noted in the State Auditor's Report for the procedures period ended April 30, 2006 and dated October 5, 2006.

**CRITERIA:** 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."

**CAUSE:** The clerk accounted for these charges as traffic offenses rather than non-traffic offenses.

**EFFECT:** The \$25 conviction surcharge was allocated between fines and assessments rather than as a surcharge.

**AUDITORS' RECOMMENDATION:** We recommend the Town make adjustments to the Victim Assistance fund and adjust collections reported to the State Treasurer as assessments and fines that were over-reported in the Town general fund

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**CONDITION 2:** The charge for "no drivers license issued" violations were not properly allocated between fines, assessments and surcharges. A similar finding was noted in the State Auditor's Report for the procedures period ended April 30, 2006 and dated October 5, 2006.

**CRITERIA:** 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."

**CAUSE:** The clerk recorded these charges as non-traffic offenses rather than misdemeanor traffic offenses.

**EFFECT:** The \$25 conviction surcharge was charged on the "no drivers license issued" violations when the law says the surcharge must not be imposed on convictions for misdemeanor traffic offenses.

**AUDITORS' RECOMMENDATION:** We recommend the Town adjust the Victim Assistance fund for collections reported as conviction surcharges and reallocate those collections as applicable to the State Treasurer.

LAW ENFORCEMENT SURCHARGES

**CONDITION:** The Town has not properly recorded the Law Enforcement Surcharge for the fines reported on the monthly dockets that were used to calculate the fine allocations. A similar finding was noted in the State Auditor's Report for the procedures period ended April 30, 2006 and dated October 5, 2006.

**CRITERIA:** The 2007-2008 General Appropriations Act (H. 3620) Part IB Section 73.2 states "...In addition to all other assessments and surcharges, during the current fiscal year, a twenty-five dollar surcharge is also levied on all fines, forfeitures, escheatment's, or other monetary penalties imposed in...municipal court."

**CAUSE:** The Treasurer allocated the fines levied manually and was not aware that part of the fine levied should have included a \$25 Law Enforcement Surcharge.

**EFFECT:** The Town did not allocate the correct amount to the Law Enforcement Surcharge. The Treasurer did not properly report or submit the \$25 collected on every fine as the Law Enforcement Surcharge. Instead it retained the money as local fine revenue.

**AUDITORS' RECOMMENDATION:** The Town should determine the amount that it improperly retained and submit amended reports to the State Treasurer along with the amount due.

**PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING**

LACK OF PROPER ACCOUNTING

**CONDITION:** The Town did not accurately and consistently record victim assistance fund revenue in their general ledger. A similar finding was noted in the State Auditor's Report for the procedures period ended April 30, 2006 and dated October 5, 2006.

**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...."

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**CAUSE:** The Clerk of Court and Treasurer ceased court accounting procedures as of July 2006.

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

**AUDITORS' RECOMMENDATION:** The Town should design and implement a system to prospectively maintain accurate records. The Town should determine the amounts that should have been transferred to Victim Assistance and make the necessary adjustments to its accounting records to correct any inaccurate account balances.

IMPROPER EXPENDITURES

**CONDITION:** The Town withdrew money from the Victim Assistance bank account without proper supporting documentation or justification to demonstrate that the money was used to provide victim services in accordance with the 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."

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

**EFFECT:** Money may have been used for a purpose other than those proscribed by the law.

**AUDITORS' RECOMMENDATION:** The Town should immediately reimburse the fund for the \$2,123.92 withdrawn from the Victim Assistance funds bank account.

**TIMELY ACCURATE REPORTING TO THE STATE TREASURER**

TIMELY FILING

**CONDITION:** The Town only held court from July 2007 through January 2008. Therefore only seven State Treasurer's Remittance Reports for the procedure period were due to the State. None of the seven State Treasurer's Remittance Reports for the procedures period July 1, 2007 through June 30, 2008 were filed. A similar finding was noted in the State Auditor's Report for the procedures period ended April 30, 2006 and dated October 5, 2006.

**CRITERIA:** South Carolina Code of Laws Sections 14-1-208 (B) states "The city treasurer must remit ... on a monthly basis by the fifteenth day of each month...."

**CAUSE:** The Clerk did not prepare the remittance form and therefore no remittance forms were submitted.

**EFFECT:** The Town did not comply with the timely filing requirement.

**AUDITORS' RECOMMENDATION:** The Town should develop and implement a policy whereby they comply with State law.

SUPPLEMENTAL SCHEDULE OF FINES AND ASSESSMENTS

**CONDITION** The Supplemental Schedule of Fines and Assessments was unavailable. A similar finding was noted in the State Auditor's Report for the procedures period ended April 30, 2006 and dated October 5, 2006.

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**CRITERIA:** South Carolina Code of Laws Section 14-1-208(E) states "the annual independent external audit ... 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 audit was not complete for the fiscal year ending June 30, 2007.

**EFFECT:** Schedules have not been prepared in accordance with South Carolina Code of Laws Section 14-1-208(E).

**AUDITORS' RECOMMENDATION:** We recommend that the Town implement the procedures to ensure it receives an audit in a timely manner.

ACCURACY IN FILED REMITTANCE REPORTS

**CONDITION:** Because of 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 city 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.

**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 make corrections as instructed.

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**SECTION B - STATUS OF PRIOR FINDINGS**

During the current engagement, we reviewed the status of corrective action taken on each of the findings reported in the Accountant's Comments section of the State Auditor's Report on the Town of Gaston for the procedures period ended April 30, 2006, and dated October 5, 2006. We determined that the Town has taken no corrective action on the following:

- Adherence to Judicial Department Fine Guidelines
- Law Enforcement Surcharges
- Other Fines, Assessments and Surcharges
- Lack of Proper Victim Assistance Accounting
- Timely Filing
- Supplemental Schedule of Fines and Assessments

The above findings were repeated for the procedures period ending June 30, 2008.

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CORRECTIVE ACTION PLAN

Management has elected not to respond.