

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

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

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

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State of South Carolina



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October 24, 2006

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

The Honorable Toni Kirby, Clerk of Court
Town of Pacolet
Pacolet, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Pacolet 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." with a stylized flourish at the end.

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 Pacolet 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. Toni Kirby, Clerk of Court for the Town of Pacolet 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 summarized the reports 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 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 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 14-1-206(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 42 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 findings are reported under the "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 State Treasurer Remittance Forms to Clerk of Court Remittance Forms for the period May 1, 2005 to April 30, 2006.
- We scanned the State Treasurer's Office 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 42 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).
- The traced and agreed amounts in the supporting schedules to the Clerk of Court Remittance Forms or equivalents.

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 and the Governor and is not intended to be and should not be used by anyone other than these specified parties.

July 14, 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

INSTALLMENT PAYMENTS

CONDITION: The Town has elected not to assess the 3% collection fee on 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 has elected not to assess the mandated fee.

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% as required by law.

CALCULATING ASSESSMENTS ON DRIVING UNDER SUSPENSION [DUS] PULL-OUTS

CONDITION: The clerk was not including the DUS Pull-Out in their calculation of assessments.

CRITERIA: South Carolina Code of Laws Sections 56-1-460(C) requires that \$100 of each fine imposed for Driving Under Suspension [DUS] be forwarded to the State Treasurer. Temporary Proviso 35.11 of the 2005-2006 General Appropriation Act requires that all fines have the 107.5 percent added for an assessment.

CAUSE: The clerk was treating the pull-out as a surcharge and not a fine. As a result, the Clerk did not calculate assessments in accordance with the law.

EFFECT: The Town under reported assessments and over reported fine revenues.

AUDITORS' RECOMMENDATION

The Town should determine the extent of the errors and make the necessary adjustments to its accounting system to properly distribute 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.

ASSESSING CONVICTION SURCHARGES

CONDITION: The clerk was adding the \$25 conviction surcharge to DUS convictions. DUS convictions are deemed misdemeanor traffic offenses.

CRITERIA: South Carolina Code of Laws Section 14-1-211 requires that a \$25 conviction surcharge be assessed on all "convictions obtained in magistrate's and municipal court in this State. The surcharge must not be imposed on convictions for misdemeanor traffic offenses."

CAUSE: The clerk classified the DUS charge as a criminal charge.

EFFECT: The Town under reported fines and assessments and over reported conviction surcharges.

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AUDITORS' RECOMMENDATION

The Town should determine the extent of the errors and make the necessary adjustments to its accounting system to properly distribute 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.

PROPER VICTIM'S ASSISTANCE FUNDS ACCOUNTING

ACCURATE VICTIM'S ASSISTANCE FUNDS

CONDITION: At year-end the Town allocates all of the Victims' Assistance funds accumulated in the prior year to police salaries. The Town does not have any records or calculations to support the expenditure or to demonstrate how the Victims' Assistance program benefits from the allocation.

CRITERIA: Sections 14-1-208(D) states "These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts."

CAUSE: The Town Treasurer was unaware of the need to substantiate the expenditure.

EFFECT: There is no substantiation for the use of Victims' Assistance Fund monies.

AUDITORS' RECOMMENDATION: The Town should ensure that all expenditures of Victims' Assistance program funds directly benefit the Victims' Assistance program.

CORRECTLY ALLOCATING VICTIMS' ASSISTANCE REVENUES

CONDITION: As a result of the findings discussed above in the "Timely and Accurate Reporting by the Town" section, the Victim's Assistance revenues are not correctly allocated. The Victim's Assistance funding is dependent in part on the assessment amounts.

CRITERIA: South Carolina Code of Laws Section 14-1-208(B) and (D) and 211 require monies generated from the assessments to be split between the State and Victim's Assistance and a surcharge is established for Victims' Assistance.

CAUSE: Misunderstandings in the application of the law caused incomplete assessment calculations and resulted in Victim's Assistance funds being misstated.

EFFECT: Inaccurate allocations of funds to Victim's Assistance.

AUDITORS' RECOMMENDATION:

The Town should determine the extent of the errors and make the necessary adjustments to its accounting system to properly distribute revenue to the Victim's Assistance fund. These changes should occur as soon as possible and in conjunction with the other recommendations.

TIMELY, ACCURATE REPORTING TO THE STATE TREASURER

TIMELY FILING

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

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

CAUSE: The Clerk did not submit reports to the State in a timely manner.

EFFECT: South Carolina Code of Laws Section 14-1-208(B) was violated for twelve months in the period of May 1, 2005 through April 30, 2006.

AUDITORS' RECOMMENDATION

The Town should develop and implement a policy to ensure compliance with State law.

COMPLETENESS OF AMOUNTS REPORTED IN THE REVENUE REMITTANCE REPORTS

CONDITION: The State Treasurer's Remittance Reports did not include all of the fines, fees and assessments that had been collected.

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: Currently there are no procedures in place to help the Clerk verify that all collections of State revenues have been accurately accounted for and remitted to the State. At month end the Clerk prepares a listing of collections, totals the list but does not compare its total to the monthly receipts total. Some of the collections that had been misclassified on the docket as previous month collections were actually current month collections and were omitted.

EFFECT: Based upon the Clerk's calculations the Remittance Reports did not include \$ 2,149.93 in collections that were due to the State Treasurer.

AUDITORS' RECOMMENDATION

The Town should develop and implement a procedure whereby total deposits for the month and amounts reported as collected are compared and differences reconciled during each reporting cycle.

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CORRECTIVE ACTION PLAN

Management has elected not to respond.