

SANTA BARBARA COUNTY

Final Audit Report

COURT REVENUES

July 1, 2004, through June 30, 2010



JOHN CHIANG
California State Controller

January 2013



JOHN CHIANG
California State Controller

January 8, 2013

Honorable Robert W. Geis, CPA
Auditor-Controller
County of Santa Barbara
105 E. Anapamu Street, Room 303
Santa Barbara, CA 93101

Gary M. Blair
Court Executive Officer
Superior Court of California,
Santa Barbara County
1100 Anacapa Street, Second Floor
Santa Barbara, CA 93101

Dear Mr. Geis and Mr. Blair:

The State Controller's Office audited Santa Barbara County's court revenues for the period of July 1, 2004, through June 30, 2010.

Our audit disclosed that the county underremitted \$858,692 in court revenues to the State Treasurer because it:

- Underremitted state DNA penalties by \$637,524
- Underremitted 50% excess of qualified fines, fees, and penalties by \$199,860
- Underremitted night court assessments by \$21,308

The county made a payment of \$637,524 in November 2012. The County Auditor-Controller's Office should remit the balance of \$221,168 to the State Treasurer.

The county should differentiate the individual accounts making up this amount on the bottom portion of the monthly TC-31, Remittance to State Treasurer, in accordance with standard remittance procedures. The county should state on the remittance advice that the account adjustments relate to the SCO audit for the period of July 1, 2004, through June 30, 2010.

Please mail a copy of the TC-31 and documentation supporting the corresponding adjustment(s) to the attention of the following individuals:

Joe Vintze, Audit Manager
Division of Audits
State Controller's Office
Post Office Box 942850
Sacramento, CA 94250-5874

Cindy Giese, Collections Supervisor
Division of Accounting and Reporting
Bureau of Tax Administration
Post Office Box 942850
Sacramento, CA 94250-5872

Honorable Robert W. Geis, CPA
Gary M. Blair, CEO

-2-

January 8, 2013

Once the county has paid the underremitted Trial Court Improvement Fund and Court Facilities Trust Fund amounts, we will calculate a penalty on the underremitted amounts in accordance with Government Code sections 68085, 70353, and 70377.

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/vb

cc: John Judnick, Senior Manager
Internal Audit Services
Judicial Council of California
Julie Nauman, Executive Officer
Victim Compensation and Government Claims Board
Greg Jolivette
Legislative Analyst's Office
Sandeep Singh, Fiscal Analyst
Division of Accounting and Reporting
State Controller's Office
Cindy Giese, Supervisor, Tax Programs Unit
Division of Accounting and Reporting
State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by Santa Barbara County for the period of July 1, 2004, through June 30, 2010.

Our audit disclosed that the county underremitted \$858,692 in court revenues to the State Treasurer because it:

- Underremitted state DNA penalties by \$637,524
- Underremitted 50% excess of qualified fines, fees, and penalties by \$199,860
- Underremitted night court assessments by \$21,308

Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to a portion of such money, the court is required by Government Code (GC) section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as practical and provide the county auditor with a monthly record of collections. This section further requires that the county auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

GC section 68103 requires that the SCO determine whether or not all court collections remitted to the State Treasurer are complete. GC section 68104 authorizes the State Controller to examine records maintained by any court. Furthermore, GC section 12410 provides the SCO with general audit authority to ensure that state funds are properly safeguarded.

Objective, Scope, and Methodology

Our audit objective was to determine whether the county completely and accurately remitted court revenues in a timely manner to the State Treasurer for the period of July 1, 2004, through June 30, 2010. We did not review the timeliness of any remittances the county may be required to make under GC sections 70353, 77201.1(b)(1), and 77201(b)(2).

To meet our objective, we reviewed the revenue processing systems within the county's Superior Court, Municipal Courts, Probation Department, and Auditor-Controller's Office.

We performed the following procedures:

- Reviewed the accuracy of distribution reports prepared by the county that show court revenue distributions to the State, the county, and the cities located within the county

- Gained an understanding of the county's revenue collection and reporting processes by interviewing key personnel and reviewing documents supporting the transaction flow
- Analyzed various revenue accounts reported in the county's monthly cash statements for unusual variations and omissions
- Evaluated the accuracy of revenue distribution, using as criteria various California codes and the SCO's *Manual of Accounting and Audit Guidelines for Trial Courts*
- Tested for any incorrect distributions
- Expanded any tests that revealed errors to determine the extent of any incorrect distributions

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We did not audit the county's financial statements. We considered the county's internal controls only to the extent necessary to plan the audit. This report relates solely to our examination of court revenues remitted and payable to the State of California. Therefore, we do not express an opinion as to whether the county's court revenues, taken as a whole, are free from material misstatement.

Conclusion

Santa Barbara County underremitted \$858,692 in court revenues to the State Treasurer. The underremittances are summarized in Schedule 1 and described in the Findings and Recommendations section of this report.

Follow-Up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, issued November 17, 2006.

Views of Responsible Officials

At an exit conference on July 19, 2012, we discussed the audit results with Rayna Pinkerton, Court Financial Officer.

At an exit conference on August 8, 2012, we discussed the audit results with Gregory Levin, CPA, Division Chief, Advanced and Specialty Accounting, and Richard Morgantini, Fiscal and Policy Analyst, County Executive Office.

The County Auditor-Controller's Office agreed with the results of the audit.

The Superior Court clarified the cause of Finding 3, in that the funds were paid to the county and the county chose to deposit the funds in the County General Fund instead of transmitting the funds to the State.

Restricted Use

This report is solely for the information and use of Santa Barbara County, the Santa Barbara County Courts, the Judicial Council of California, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

January 8, 2013

Schedule 1— Summary of Audit Findings by Fiscal Year July 1, 2004, through June 30, 2010

Description of Finding Account Title ¹ —Code Section	Fiscal Year						Total	Reference ²
	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10		
Underremitted 50% excess of qualified fines, fees, and penalties:								
GC §77205	\$ 21,655	\$ 38,109	\$ 34,877	\$ 37,708	\$ 35,200	\$ 32,311	\$ 199,860	Finding 2
Underremitted State DNA Identification Penalties:								
GC §76104.7	—	—	13,142	118,595	251,647	254,140	637,524	Finding 1
Night Court Assessment:								
VC §42006	—	—	—	—	21,308	—	21,308	Finding 3
Net amount underpaid (overpaid) to the State Treasurer	<u>\$ 21,655</u>	<u>\$ 38,109</u>	<u>\$ 48,019</u>	<u>\$ 156,303</u>	<u>\$ 308,155</u>	<u>\$ 286,451</u>	<u>\$ 858,692</u>	

Legend: GC = Government Code; VC = Vehicle Code

¹ The identification of State revenue account titles should be used to ensure proper recording when preparing the Remittance Advice Form TC-31 to the State Treasurer.

² See the Findings and Recommendations section.

**Schedule 2—
Summary of Underremittances by Month
Trial Court Improvement Fund
July 1, 2004, through June 30, 2010**

Month	Fiscal Year					
	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
July	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
August	—	—	—	—	—	—
September	—	—	—	—	—	—
October	—	—	—	—	—	—
November	—	—	—	—	—	—
December	—	—	—	—	—	—
January	—	—	—	—	—	—
February	—	—	—	—	—	—
March	—	—	—	—	—	—
April	—	—	—	—	—	—
May	—	—	—	—	—	—
June	<u>21,655</u>	<u>38,109</u>	<u>34,877</u>	<u>37,708</u>	<u>35,200</u>	<u>32,311</u>
Total underremittances to the State Treasurer	<u>\$ 21,655</u>	<u>\$ 38,109</u>	<u>\$ 34,877</u>	<u>\$ 37,708</u>	<u>\$ 35,200</u>	<u>\$ 32,311</u>

NOTE: Delinquent Trial Court Improvement Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 68085(h). The SCO will calculate and bill the county for the penalty amount after the county pays the underlying amount owed.

**Schedule 3—
Summary of Underremittances by Month
Court Facilities Trust Fund
July 1, 2004, through June 30, 2010**

Month	Fiscal Year					
	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
July	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
August	—	—	—	—	—	—
September	—	—	—	—	—	—
October	—	—	—	—	—	—
November	—	—	—	—	—	—
December	—	—	—	—	—	—
January	—	—	—	—	3,110	—
February	—	—	—	—	3,333	—
March	—	—	—	—	3,743	—
April	—	—	—	—	3,834	—
May	—	—	—	—	3,488	—
June	—	—	—	—	3,800	—
Total underremittances to the State Treasurer	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 21,308</u>	<u>\$ —</u>

NOTE: Delinquent Court Facilities Trust Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 70353. The SCO will calculate and bill the county for the penalty amount after the county pays the underlying amount owed.

Findings and Recommendations

**FINDING 1—
Underremitted DNA
penalties**

The Santa Barbara Auditor-Controller did not distribute night court assessments from the period January 2009 through June 2009 after receiving payment from the Superior Court.

Starting July 2006, Government Code (GC) section 76104.7 requires a \$1 penalty for every \$10 or fraction thereof upon every fine, penalty, and forfeiture levied on criminal offenses including traffic offenses, but excluding parking offenses. The DNA Identification Penalty Assessment is levied and collected in the same manner as the State Penalty imposed per Penal Code (PC) section 1464, and 100% should be distributed, including interest, to the State DNA Identification Fund.

The under and over remittances had the following effect:

Account Title	Understated/ (Overstated)
State DNA Identification Fund – GC 76104.7	\$ 637,524
County State Trust Account	(637,524)

Recommendation:

The county should remit \$637,524 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the State DNA Identification Fund – (GC) Section 76104.7. The county also should make the corresponding account adjustments.

The County Auditor-Controller’s Office should establish formal procedures to ensure that State DNA Identification revenues are correctly distributed in accordance with statutory requirements. A redistribution should be made for the collection period starting July 2010 through the date the current system is revised.

County Auditor-Controller’s Response

The Santa Barbara County Auditor-Controller’s Office concurs with the finding and recommendation. They also believe, based upon the exit conference discussions with State Controller staff, that there is no penalty associated with the failure to remit DNA identification funds to the treasury.

Superior Court’s Response

The Superior Court stated that, “this finding pertains to the county distribution of DNA penalties; therefore, the court has no response.”

Auditor’s Comment

The finding remains as stated.

**FINDING 2—
Underremitted excess
of qualified fines, fees,
and penalties**

The County Auditor-Controller's Office underremitted by \$199,860 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the five fiscal years starting July 1, 2006, and ending June 30, 2010.

Government Code (GC) section 77201(b)(2) requires Santa Barbara County, for its base revenue obligation, to report \$3,277,610 for fiscal year (FY) 2004-05 and each fiscal year thereafter. In addition, GC section 77205(a) requires the county to remit to the Trial Court Improvement Fund, 50% of qualified revenues that exceed the stated base for each fiscal year.

The error occurred because the county used incorrect entries in its maintenance-of-effort (MOE) distribution working papers, and as a result of the following conditions:

- For all six fiscal years, the court did not appropriately distribute \$1 to the Jail Facility Fund and \$1 to the Court Construction Fund from the county's 23% portion. Instead, the \$1 jail facility and \$1 county court construction penalties were taken out of the total Traffic Violator School (TVS) bail. Government Code section 77205 (December 31, 1997) specifies that penalties be taken from the county's 23% portion, not 100% of the penalties. Therefore, 77% of the TVS bail applicable to the MOE included the \$2 penalty amounts; \$191,494 should have been included in the MOE.
- For all six fiscal years, the county did not include the MOE 30% State penalties from the probation department. A total of \$119,286 should have been included in the MOE.
- Parking surcharges reported by the Sheriff's Department were not included in the MOE. A total of \$88,940 should have been included in the MOE.

The qualified revenues reported for FY 2004-05 were \$4,653,942. The excess, above the base of \$3,277,610, is \$1,376,332. This amount should be divided equally between the county and the State, resulting in \$688,166 excess due the State. The county has remitted a previous payment of \$666,511, causing an underremittance of \$21,655.

The qualified revenues reported for FY 2005-06 were \$4,702,801. The excess, above the base of \$3,277,610, is \$1,425,191. This amount should be divided equally between the county and the State, resulting in \$712,595 excess due the State. The county has remitted a previous payment of \$674,486, causing an underremittance of \$38,109.

The qualified revenues reported for FY 2006-07 were \$4,367,566. The excess, above the base of \$3,277,610, is \$1,089,956. This amount should be divided equally between the county and the State, resulting in \$544,978 excess due the State. The county has remitted a previous payment of \$510,101, causing an underremittance of \$34,877.

The qualified revenues reported for FY 2007-08 were \$4,528,403. The excess, above the base of \$3,277,610, is \$1,250,793. This amount should be divided equally between the county and the State, resulting in \$625,397 excess due the State. The county has remitted a previous payment of \$587,689, causing an underremittance of \$37,708.

The qualified revenues reported for FY 2008-09 were \$4,405,653. The excess, above the base of \$3,277,610, is \$1,128,042. This amount should be divided equally between the county and the State, resulting in \$564,021 excess due the State. The county has remitted a previous payment of \$528,822, causing an underremittance of \$35,200.

The qualified revenues reported for FY 2009-10 were \$4,368,108. The excess, above the base of \$3,277,610, is \$1,090,498. This amount should be divided equally between the county and the State, resulting in \$545,249 excess due the State. The county has remitted a previous payment of \$512,938, causing an underremittance of \$32,311.

The following table shows the effect of the underremittances:

Account Title	Understated/ (Overstated)
Trial Court Improvement Fund–GC §77205	
FY 2004-05	\$ 21,655
FY 2005-06	38,109
FY 2006-07	34,877
FY 2007-08	37,708
FY 2008-09	35,200
FY 2009-10	32,311
County General Fund	(199,860)

Recommendation

The county should remit \$199,860 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the Trial Court Improvement Fund–GC section 77205. The county also should make the corresponding account adjustments.

County Auditor-Controller’s Response

The Santa Barbara County Auditor-Controller’s Office concurs with the finding and recommendation.

Superior Court’s Response

The Court has corrected its distribution of the \$1 Jail Facility Fund and the \$1 Court Construction Fund to comply with Government Code section 77205.

**FINDING 3—
Underremitted night
court assessments**

The Santa Barbara Auditor-Controller did not distribute night court assessments from January 2009 through June 2009.

Starting January 1, 2009, Vehicle Code (VC) section 42006 requires a special assessment equal to one dollar (\$1) for every fine, forfeiture and traffic violator school fee imposed and collected by any court that conducts a night or weekend session of the court.

The inappropriate distribution had the following effect:

Account Title	Understated/ (Overstated)
State Court Facilities Trust Fund – GC 70352	\$ 21,308
County General Fund	(21,308)

Recommendation

The county should remit \$21,308 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the State Court Facilities Trust Fund – GC section 70352. The county also should make the corresponding account adjustments.

County Auditor-Controller’s Response

It is the County Auditor-Controller’s understanding that the Court has amended its procedures. The County Auditor-Controller’s Office will work with the Courts to remit the funds not distributed to the State Treasurer, along with a TC-31 form.

Superior Court’s Response

The Superior Court recommended the finding be clarified as to the cause of the exception and the source of any additional payment as noted on page two of Attachment B.

SCO’s Comment

We agree with the clarification noted in the Superior Court’s response to the draft audit report (Attachment B) and have revised our finding.

**Attachment A—
County Auditor-Controller's Response
to Draft Audit Report**

COUNTY OF SANTA BARBARA

ROBERT W. GEIS, C.P.A.
Auditor-Controller

THEO FALLATI, C.P.A.
Assistant Auditor-Controller



County Administration Bldg.
105 E. Anapamu Street, Rm. 303
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(805) 566-2100

Auditor@co.santa-barbara.ca.us

Mailing Address:
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Santa Barbara, CA 93102-0039
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OFFICE OF THE AUDITOR-CONTROLLER

November 2, 2012

Mr. Steven Mar
Chief, Local Government Audits Bureau
State Controller's Office, Division of Audits
PO Box 942850
Sacramento, California 94250-5874

Mr. Mar,

This letter is in response to the letter and attached draft audit report: "Court Revenues" dated October 15, 2012 from Mr. Jeffrey Brownfield. This letter was received on October 19, 2012 and requested a response 15 calendar days from receipt.

In review of the draft audit report we have one requested change which is as follows:

On page 2, the report indicates that you discussed the results of the audit with Mr. Robert W. Geis, CPA, Auditor – Controller. Mr. Geis was not present at that meeting; accordingly, we are requesting that you change the report to indicate that the results were discussed with the following people:

- Gregory Levin, CPA, Division Chief, Advanced and Specialty Accounting
- Richard Morgantini, Fiscal and Policy Analyst, County Executive Office

Please find our responses to the applicable findings below:

Finding 1:

The Santa Barbara County Auditor-Controller's Office concurs and will amend its fines and penalty distribution procedures to include the distribution of AB 1806 State DNA Identification Revenues in accordance with Statutory Requirements. Additionally, the County has remitted the funds to the State Treasurer, along with a TC-31 Form (see attached). It is our understanding from the exit interview discussion with State Controller Staff that there is no penalty associated

with a failure to remit DNA identification funds to the treasury. Accordingly, we believe that by remitting the funds and amending our procedures this matter will be settled.

Finding 2:

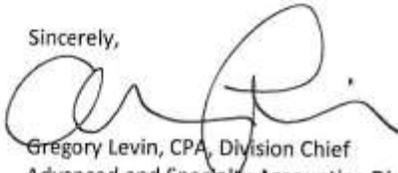
The County of Santa Barbara concurs and will amend its Maintenance of Effort Calculation procedures to ensure the proper calculation of amounts due. Additionally, the County will remit the funds not distributed to the State Treasurer, along with a TC-31 Form.

Finding 3:

Our understanding is that the Santa Barbara Superior Court has already amended its procedures to ensure the proper distribution of Night Court assessments. Additionally, the County will work with Courts to remit the funds not distributed to the State Treasurer, along with a TC-31 Form.

This concludes our response to the findings and the draft report. Please feel to contact me if you have any questions regarding our response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gregory Levin', with a large, stylized flourish at the end.

Gregory Levin, CPA, Division Chief
Advanced and Specialty Accounting Division
Santa Barbara County Auditor-Controller
105 E. Anapamu Suite 300
Santa Barbara, Ca 93101
p: 805-568-2141
Email: Glevin@co.santa-barbara.ca.us

Attachment: TC 31 for Finding 1

**Attachment B—
Court's Response to
Draft Audit Report**



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA
1100 ANACAPA STREET, SANTA BARBARA, CA 93101

GARY M. BLAIR
SUPERIOR COURT EXECUTIVE OFFICER
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DARREL E. PARKER
ASSISTANT EXECUTIVE OFFICER
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FAX: (805) 614-6581

GARY M. BLAIR
EXECUTIVE OFFICER - COMMISSIONER - CLERK OF COURT

November 6, 2012

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. Steven Mar
Chief, Local Government Audits Bureau
State Controller's Office, Division of Audits
P.O. Box 942850
Sacramento, California 94250-5874

Subject: Santa Barbara County Draft Audit – Superior Court's Response

Dear Mr. Mar:

This letter is in response to your letter and the draft audit report: "Court Revenues" dated October 15, 2012 from Mr. Jeffry Brownfield. This letter was received on October 22, 2012 with a requested response 15 calendar days from the date of our receipt. I requested an additional 15 days to respond but to date have not received any response from you.

Please find our responses to the applicable draft findings below:

Court Comments on Finding 1: This finding pertains to the County distribution of DNA penalties; therefore the Court has no response.

Court Comments on Finding 2: The County has taken responsibility for this Finding and will amend its Maintenance of Effort calculation to insure its correctness. As to the first bullet, the Court has corrected its distribution of the \$1 Jail Facility Fund and the \$1 Court Construction Fund to comply completely with Government Code Section 77205 and the appropriate amounts will now be included in the MOE calculation.

The other bullet items pertain to other County Departments; therefore, the Court has no response for these two bullet items.

Court Comments on Finding 3: This finding is somewhat misstated and should be clarified. The Court notified the County in December 2008 that the night court assessment needed to be distributed to the State Court Facilities Fund. The Court did not distribute the night court assessment fee from January 1 through June 30, 2009. This is because the County did not agree that it belonged to the State Court Facilities Fund since all of the county-owned court facilities had not yet transferred to the State under the provisions of the Trial Court Facilities Act (SB 1732).

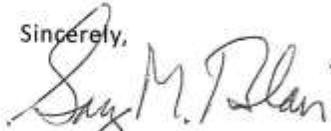
In May 2010, the County finally agreed that the night court assessment fee belonged entirely to the State Court Facilities Fund. The County changed its position due to the amended Vehicle Code Section 42006 which no longer based this assessment upon the transfer of facilities, but now stated that the night court assessment was to be distributed in its entirety to the State Court Facilities Fund. The Court then adjusted the payments and had the assessment remitted to the State Court Facilities Fund for the period July 1, 2009 through May 31, 2010. However, the County would not agree to transfer night court assessments collected and distributed incorrectly to the County from the previous fiscal year commencing with the effective date of Vehicle Code Section 42009, January 1, 2009. Therefore, revenue for the period of January 1 through June 30, 2009 did not appropriately transfer to the State Court Facilities Fund.

The revenue for this first six month period stated above was deposited into a County Fund and thus, as the County agreed, payment should be made from County funds. The County may want to transfer the funds to the Court Distribution Fund for the Court to remit along with the Court's TC-31 or the County may want to remit directly and include payment on the County TC-31. I believe that when, in their response to Finding 3, the County stated "the County will work with the Courts to remit the funds not distributed to the State Treasurer, along with the TC-31 Form," the County means that the Court and the County need to discuss to which TC-31 this assessment should be added and who should remit the payment. The source of the funds will be from the County.

Superior Court Response to Draft Audit Findings

Please contact me if you have any questions regarding these responses to the draft audit findings.

Sincerely,



Gary M. Blair
Executive Officer

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>