

# **FRESNO COUNTY**

Audit Report

## **COURT REVENUES**

*July 1, 2005, through June 30, 2011*



**JOHN CHIANG**  
California State Controller

October 2013



**JOHN CHIANG**  
**California State Controller**

October 23, 2013

Honorable Vicky Crow  
Auditor-Controller  
Fresno County  
P.O. Box 1247  
Fresno, CA 93721

Tamara Beard  
Court Executive Officer  
Superior Court of California, Fresno County  
1100 Van Ness  
Fresno, CA 93724

Dear Ms. Crow and Ms. Beard:

The State Controller's Office (SCO) audited Fresno County's court revenues for the period of July 1, 2005, through June 30, 2011.

Our audit found that the county underremitted \$203,975 in court revenues to the State Treasurer because California State University, Fresno underremitted \$203,975 to the State.

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, 2005, through June 30, 2011.

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

Jerry Zhou, CPA, 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

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

Honorable Vicky Crow  
Tamara Beard

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October 23, 2013

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

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

JVB/sk

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  
Richard J. Chivaro, Chief Counsel  
State Controller's Office

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## Audit Report

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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 Fresno County for the period of July 1, 2005, through June 30, 2011.

Our audit found that the county underremitted \$203,975 in court revenues to the State Treasurer because California State University, Fresno underremitted \$203,975 to the State.

## 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, 2005, through June 30, 2011. 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, Revenue Collection Unit, 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**

Fresno County underremitted \$203,975 in court revenues to the State Treasurer. The underremittance is 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 on January 31, 2007, with the exception of Finding 2, inadequate accounting and case management by the County Revenue and Recovery Department.

## **Views of Responsible Officials**

We issued a draft audit report on August 12, 2013. Vicki Crow, County Auditor-Controller, on behalf of both Fresno County and Superior Court, responded by letter dated August 20, 2013 (Attachment A) and agreed with the audit results.

**Restricted Use**

This report is solely for the information and use of Fresno County, the Fresno 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, CPA  
Chief, Division of Audits

October 23, 2013

**Schedule 1—  
Summary of Audit Findings by Fiscal Year  
July 1, 2005, through June 30, 2011**

<u>Description of Finding</u> <u>Account Title<sup>1</sup>–Code Section</u>	<u>Fiscal Year</u>			<u>Total</u>	<u>Reference<sup>2</sup></u>
	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>		
Non-payment of parking violations:					
ICNA–GC 70372(b)	\$ 19,668	\$ 46,272	\$ 54,567	\$ 120,507	Finding 1
State Court Facility Construction Fund–GC 70372(b)	9,834	23,136	27,284	60,254	Finding 1
Trial Court Trust Fund–GC 76000.3	—	—	23,214	23,214	Finding 1
Net amount underpaid (overpaid) to the State Treasurer	<u>\$ 29,502</u>	<u>\$ 69,408</u>	<u>\$ 105,065</u>	<u>\$ 203,975</u>	

GC = Government Code

<sup>1</sup> 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.

<sup>2</sup> See the Findings and Recommendations section.

**Schedule 2—  
Summary of Underremittances by Month  
Trial Court Trust Fund  
July 1, 2005, through June 30, 2011**

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<u>Month</u>	<u>Fiscal Year 2010-11</u>
July	\$ 1,935
August	1,935
September	1,935
October	1,935
November	1,935
December	1,935
January	1,935
February	1,935
March	1,935
April	1,935
May	1,935
June	<u>1,929</u>
Total underremittances to the State Treasurer	<u>\$ 23,214</u>

NOTE: Delinquent Trial Court 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 68085(h). The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

**Schedule 3—  
Summary of Underremittances by Month  
State Court Facilities Construction Fund  
July 1, 2005, through June 30, 2011**

<u>Month</u>	Fiscal Year		
	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>
July	\$ 2,458	\$ 5,784	\$ 6,821
August	2,458	5,784	6,821
September	2,458	5,784	6,821
October	2,458	5,784	6,821
November	2,458	5,784	6,821
December	2,458	5,784	6,821
January	2,458	5,784	6,821
February	2,458	5,784	6,821
March	2,458	5,784	6,821
April	2,458	5,784	6,821
May	2,458	5,784	6,821
June	2,464	5,784	6,820
Total underremittances to the State Treasurer	<u>\$ 29,502</u>	<u>\$ 69,408</u>	<u>\$ 81,851</u>

NOTE: Delinquent State Court Facilities Construction 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 70377. 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 state  
parking penalties**

California State University, Fresno (CSU Fresno) did not remit county or state parking penalties from July 2005 through June 2011. The errors occurred because CSU Fresno’s accounting system has not been programmed to comply with the statutory requirements affecting the distribution of parking violations.

Vehicle Code (VC) section 40200.4 requires the parking processing agencies to deposit with the county treasurer all sums due to the county from parking violations.

Government Code (GC) section 76000(c) requires the county to deposit a \$2.50 parking surcharge in both the County Courthouse Construction Fund and Criminal Justice Facilities Fund, from each parking fine collected. Further, this section requires \$1 of each \$2.50 parking surcharge be distributed to the State General Fund.

GC section 70372 requires the county to distribute to the State Court Facility Construction Fund an additional penalty of \$4.50 for every parking fine or forfeiture starting on January 1, 2009.

GC section 76000.3 requires the county to distribute to the State Trial Court Trust Fund an additional penalty of \$3.00 for every parking fine or forfeiture starting on December 7, 2010.

The inappropriate distributions for parking surcharges and fines affect the revenues reported to the State Trial Court Improvement Fund under the Maintenance of Effort formula pursuant to GC section 77205. In addition, the inappropriate distribution had the following effect:

Account Title	Understated/ (Overstated)
State Court Facility Construction Fund (ICNA) – GC 70372(b)	\$ 120,507
State Court Facility Construction Fund – GC 70372(b)	60,254
State Trial Court Trust Fund – GC 76000.3	23,214

Recommendation

CSU Fresno should remit \$203,975 to Fresno County for submittal to the State Treasurer. The county should report on the remittance advice (TC-31) increases of \$120,507 to the State Court Facilities Construction Fund (ICNA) – GC section 70372(b), \$60,254 to the State Court Facilities Construction Fund – GC section 70372(b), and \$23,214 to the State Trial Court Trust Fund – GC section 76000.3.

Auditor-Controller’s Response

The Auditor-Controller concurred with the finding, and suggested that the SCO send invoice of any payment and penalties directly to CSU Fresno.

SCO Comment

The county should collect the funds noted in the finding by informing CSU Fresno of its shortages by either invoicing or offsetting payments to the entity.

**FINDING 2—  
Inadequate  
accounting and case  
management by the  
County Revenue and  
Recovery Department**

As noted in the previous audit, the Fresno County Revenue and Recovery Department did not properly report and distribute the fines, penalties, surcharges and fees to proper recipients because there was no reconciliation between the Month to Date Collections Report and the underlying spreadsheets.

This error caused the county to inaccurately state the distributions made to the state and county funds. The monetary amount of understatement or overstatement due to collections not reconciled were not computed by the auditor since the supporting background data was not available for review.

Government Code section 68101 requires any judge imposing or collecting fines or forfeitures to keep a record of them. Therefore, it is the collecting department's responsibility to maintain a complete and valid recordkeeping system.

Recommendation

The County Revenue and Recovery Department should ensure that the collections are distributed in accordance with applicable laws and properly supported.

Auditor-Controller's Response

The Auditor-Controller concurs with the audit finding.

**FINDING 3—  
Incorrect  
distributions of fines  
to ticketing agency**

Fresno Superior Court did not assess red light violation fees and transfer the funds to the issuing agency.

Penal Code section 1463.11 requires 30% of base fines from red light violations be distributed to the county or city in which the offense occurred.

The State Court Facility Construction fund has been overstated by the lack of distributions.

Recommendation

The Fresno Superior Court should enhance its distribution tables in order to make the distributions in accordance with statutes.

Auditor-Controller's Response

The Auditor-Controller (on behalf of the Fresno Superior Court) stated,

The Court worked with both the State Controller's Office and the Administrative Office of the Courts Internal Audit Division to correct the distribution tables in the case management system. It was corrected as of January 5, 2013.

**FINDING 4—  
Incorrect  
distributions of fines  
to ticketing agency**

Fresno Superior Court did not assess the secret witness fee on Fish and Game fines during the audit period.

Fish and Game Code section 12021 requires a \$15 secret witness fee be imposed and distributed to the State Fish and Game Preservation Fund.

Failure to distribute Fish and Game secret witness fee assessments understates the Fish and Game secret witness fund.

Recommendation

The Fresno Superior Court should enhance their distribution tables in order to make the Secret Witness fee distribution in accordance with statutes.

Auditor-Controller's Response

The Auditor-Controller (on behalf of the Fresno Superior Court) stated

The secret witness fee is available for use by judicial officers in the case management system. The Court is in the process of updating its procedures and forms for Fish & Game violations in which the secret witness fee is appropriate. The court will also remind the judges that this fee needs to be ordered at the time of sentencing. However, this fee will be ordered only at the judicial officer's discretion.

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

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## County of Fresno

Vicki Crow, C.P.A.

Auditor-Controller/Treasurer-Tax Collector

August 20, 2013

Mr. Steve Mar  
Local Government Audit Bureau  
Division of Audits  
State Controller's Office  
P.O. Box 942850  
Sacramento, CA 94258-5874  
Attn: Kyle Eurie

Dear Mr. Mar:

Please find our response below to findings 1, 2, 3 and 4 of the July 2013 Fresno County Court Revenues draft audit report for the period July 1, 2005 through June 30, 2011.

Finding 1 - Underremitted state parking penalties

Response:

The County concurs with the finding that CSU Fresno should remit \$203,975 to the County of Fresno for submittal to the State Treasurer.

The County concurs with the finding that CSU Fresno did not remit timely the Monthly Allocation of Parking Penalties Report or the corresponding penalties collected.

The County of Fresno believes the State Controller's Office should send any invoice for payment of penalties for late filings and remittance of collections directly to CSU Fresno as the agency responsible for the delayed reporting to the County of Fresno, and that this should be reflected in Finding 1. This is consistent with Government Code (GC) 68085(j)(1), which provides, in part, that ". . . [p]ayment shall be made by the entity responsible for the error or other action that caused the failure to pay . . ." As the draft audit report concludes, it is CSU Fresno that is the entity responsible for the failure to timely pay the amounts owed to the County for forwarding to the State Controller's Office. As such, CSU Fresno should receive the bill for the applicable penalty directly.

This conclusion is demonstrated by the following facts, which the County requests be included as part of Finding 1. On February 17, 2012, CSU Fresno remitted information and payment to the County of Fresno for the period July 2006 through August 2009 in the amount of \$307,558.50. On April 15, 2012, the County then remitted the information

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Equal Employment Opportunity – Affirmative Action – Disabled Employer

and \$307,558.50 to the State in compliance with GC 70372(f)(1) and (2) and 70377(a). On January 29, 2013, CSU Fresno remitted information and payment to the County of Fresno for the period September 2009 through June 2011 in the amount of \$317,988.00. On February 14, 2013, the County then remitted the information and \$317,988.00 in compliance with those cited Government Codes.

The County has voluntarily implemented a process wherein agencies delinquent over 30 days will be notified. If the agency does not respond to the County within 15 days, the State Controller's Office will be notified so that State may take appropriate action directly against the delinquent agency. This process is not required by statute but is an attempt to improve agencies' compliance with statutes.

The County does not concur with the inclusion of paragraph 3 of Finding 1 regarding its citation to GC 76000(c), concerning allocations of parking penalties between the local Courthouse Construction Fund, Criminal Justice Facilities Fund, and the State General Fund, because that statutory provision is irrelevant to the finding. However, we note that the County is waiting for a response from the State Controller's Office from the County's March 8, 2013 letter regarding the County's May 2010 resolution that updated the fee structure to respond to this Government Code section. We would appreciate your providing us with a projected date when the County may expect a response to its March 8, 2013 letter.

Finding 2 – Inadequate accounting and case management by the County Revenue and Recovery

Response:

We concur with the audit finding recognizing that the records kept during the audit period were not sufficient to provide the required distribution information for the audit. The County has implemented changes as of June 2011 to procedures and updated the software system that distributes the fines, penalties, and surcharges. The procedures were reviewed by the SCO's auditor assigned to the Court Revenue audit and the auditor concurred with changes made by Fresno County's Revenue Collection's Unit to remedy the audit finding.

Finding 3 – Incorrect distributions of fines to ticketing agency

Response:

The Court worked with both the State Controller's Office and the Administrative Office of the Courts Internal Audit Division to correct the distribution tables in the case management system. It was corrected as of January 5, 2013.

Fresno County Court Revenues July 1, 2005 through June 30, 2011  
August 20, 2013  
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Finding 4 – Incorrect distributions of fines to ticketing agency

Response:

The secret witness fee is available for use by judicial officers in the case management system. The Court is in the process of updating its procedures and forms for Fish & Game violations in which the secret witness fee is appropriate. The court will also remind the judges that this fee needs to be ordered at the time of sentencing. However, this fee will be ordered only at the judicial officer's discretion.

Sincerely,



Vicki Crow, C.P.A.  
Auditor-Controller/Treasurer-Tax Collector

Cc: Fresno County Superior Court

**State Controller's Office  
Division of Audits  
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**<http://www.sco.ca.gov>**