

# **SOLANO COUNTY**

Audit Report

## **COURT REVENUES**

*July 1, 2009, through June 30, 2016*



**BETTY T. YEE**  
California State Controller

August 2018



**BETTY T. YEE**  
**California State Controller**

August 10, 2018

The Honorable Simona Padilla-Scholtens,  
CPA, Auditor-Controller  
Solano County  
675 Texas Street, Suite 2800  
Fairfield, CA 94533

Brian K. Taylor, Court Executive Officer  
Superior Court of California, Solano County  
600 Union Avenue  
Fairfield, CA 94533

Robert V. Diamond, Vice President,  
Finance and Administration  
Solano County Community College District  
4000 Suisun Valley Road  
Fairfield, CA 94534

Ashley Andersen, University Controller  
California State University Maritime Academy  
200 Maritime Academy Drive  
Vallejo, CA 94590

Fred Marsh, Director of Finance  
City of Fairfield  
1000 Webster Street  
Fairfield, CA 94533

Dear Ms. Padilla-Scholtens, Mr. Taylor, Mr. Diamond, Ms. Andersen, and Mr. Marsh:

The State Controller's Office (SCO) audited Solano County's court revenues for the period of July 1, 2009, through June 30, 2016.

Our audit found that \$182,730 in state court revenues was underremitted to the State Treasurer. Specifically, we found that Solano County underremitted by \$10,193 to the State Treasurer the 50% excess of qualified fines, fees, and penalties and that the following three entities underremitted by \$172,537 parking surcharges to the State Treasurer via Solano County:

- Solano County Community College District by \$96,451;
- California State University Maritime Academy (Cal Maritime) by \$64,735; and
- City of Fairfield by \$11,351.

Our audit also found that the following two entities underremitted a total of \$112,966 in parking surcharges to Solano County:

- Solano County Community College District by \$65,870; and
- Cal Maritime by \$47,096.

The Honorable Simona Padilla-Scholtens,     -2-  
CPA, Auditor-Controller;  
Brian K. Taylor, Court Executive Officer;  
Robert V. Diamond, Vice President,  
Finance and Administration;  
Ashley Andersen, University Controller; and  
Fred Marsh, Director of Finance

August 10, 2018

Subsequent to the issuance of the draft audit report, Solano County Community College District made a \$162,321 payment on March 8, 2018, to Solano County, consisting of:

- Parking surcharges of \$96,451 owed to the State Treasurer that the county remitted to the SCO on March 15, 2018, for deposit with the State Treasurer; and
- Parking surcharges of \$65,870 owed to Solano County.

The remaining balance owed to the State Treasurer is \$86,279; this amount consists of \$10,193 from Solano County, \$64,735 from Cal Maritime, and \$11,351 from the City of Fairfield. In addition, the remaining balance owed to Solano County is \$47,096 from Cal Maritime.

In addition, the county should remit their underremitted amount and amounts received from Cal Maritime and the City of Fairfield to the State Treasurer via the TC-31 (Report to State Controller of Remittance to State Treasurer) and include the Schedule of this audit report. On the TC-31, the county should specify the account name identified on the Schedule of this report and state that the amounts relate to the SCO audit period of July 1, 2009, through June 30, 2016.

The county should not combine audit finding remittances with current revenues on the TC-31. A separate TC-31 should be submitted for underremitted amounts for the audit period. For your convenience, the TC-31 and directions for submission to the State Treasurer's Office are located at [https://www.sco.ca.gov/ard\\_state\\_accounting.html](https://www.sco.ca.gov/ard_state_accounting.html).

The underremitted amounts are due no later than 30 days after receipt of this final audit report. The SCO will add a statutory one and a half percent (1.5%) per month penalty on applicable delinquent amounts if payment is not received within 30 days of issuance of the final audit report. Counties are not responsible for collection of underremitted state amounts of other entities, but are responsible for remitting amounts received from other entities to the State Treasurer upon receipt.

Once the county has paid the underremitted amounts, the Tax Accounting Unit (TAU) will calculate interest on the underremitted amounts and bill the applicable entities in accordance with Government Code sections 68085, 70353, and 70377.

The Honorable Simona Padilla-Scholtens, -3-  
CPA, Auditor-Controller;  
Brian K. Taylor, Court Executive Officer;  
Robert V. Diamond, Vice President,  
Finance and Administration;  
Ashley Andersen, University Controller; and  
Fred Marsh, Director of Finance

August 10, 2018

Please mail a copy of the TC-31 and documentation supporting the corresponding adjustments to the attention of the following individual:

Tax Accounting Unit Supervisor  
Local Government Programs and Services Division  
Tax Administration  
State Controller's Office  
Post Office Box 942850  
Sacramento, CA 94250

Cal Maritime disputes certain facts related to the conclusions and recommendations contained in this audit report. The SCO has an informal audit review process for resolving disputes. To request a review, Cal Maritime should submit a written request for a review, along with supporting documents and information pertinent to the disputed issues, within 60 days of receiving this final report. The review request should be submitted to Richard J. Chivaro, Chief Counsel, State Controller's Office, Post Office Box 942850, Sacramento, CA 94250. In addition, please provide a copy of the request letter to Lisa Kurokawa, Chief, Compliance Audits Bureau, State Controller's Office, Division of Audits, Post Office Box 942850, Sacramento, CA 95250.

If you have any questions regarding the audit findings, please contact Ms. Kurokawa by telephone at (916) 327-3138, or email at lkurokawa@sco.ca.gov.

If you have any questions regarding payments, TC-31s, or interest and penalties, please contact the TAU by email at lgpsdtaxaccounting@sco.ca.gov.

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

JVB/as

The Honorable Simona Padilla-Scholtens,     -4-  
CPA, Auditor-Controller;  
Brian K. Taylor, Court Executive Officer;  
Robert V. Diamond, Vice President,  
Finance and Administration;  
Ashley Andersen, University Controller; and  
Fred Marsh, Director of Finance

August 10, 2018

cc: John Vasquez, Chair  
    Solano County Board of Supervisors  
Grant Parks, Manager  
    Internal Audit Services  
    Judicial Council of California  
Mike Less, Accounting Manager  
    City of Fairfield  
Julie Nauman, Executive Officer  
    Victim Compensation and Government Claims Board  
Anita Lee, Senior Fiscal and Policy Analyst  
    Legislative Analyst's Office  
Don Lowrie, Fiscal Analyst  
    Local Government Programs and Services Divison  
    State Controller's Office  
Korinn Revelino, Supervisor, Tax Administration  
    Local Government Programs and Services Divison  
    State Controller's Office  
Richard J. Chivaro, Chief Counsel  
    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 Solano County on the Report to State Controller of Remittance to State Treasurer Form (TC-31) for the period of July 1, 2009, through June 30, 2016.

Our audit found that \$182,730 in state court revenues was underremitted to the State Treasurer. Specifically, we found that Solano County underremitted by \$10,193 to the State Treasurer the 50% excess of qualified fines, fees, and penalties and that the following three entities underremitted by \$172,537 parking surcharges to the State Treasurer via Solano County:

- Solano County Community College District by \$96,451;
- California State University Maritime Academy (Cal Maritime) by \$64,735; and
- City of Fairfield by \$11,351.

Our audit also found that the following two entities underremitted a total of \$112,966 in parking surcharges to Solano County:

- Solano County Community College District by \$65,870; and
- Cal Maritime by \$47,096.

## 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 receive 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 the SCO to review the reports and records to ensure that all fines and forfeitures have been transmitted. GC section 68104 authorizes the SCO to examine records maintained by the court. Furthermore, GC section 12410 provides the SCO with general audit authority to audit the disbursement of state money for correctness, legality, and sufficient provisions of law for payment.

## Objective, Scope, and Methodology

Our audit objective was to determine whether the county and court remitted all court revenues pursuant to the TC-31 process for the period of July 1, 2009, through June 30, 2016.

To meet our objective, we:

#### General

- Gained an understanding of the county and court's revenue collection and reporting processes by interviewing key personnel, and reviewing documentation supporting the transaction flow;
- Scheduled monthly TC-31 remittances prepared by the county and the court showing court revenue distributions to the State; and
- Performed a review of the complete TC-31 remittance process for revenues collected and distributed by the county and the court.

#### Cash Collections

- Scheduled monthly cash disbursements prepared by the county and the court showing court revenue distributions to the State, county, and cities for all fiscal years in the audit period;
- Performed analytical procedures using ratio analysis for state and county revenues to assess reasonableness based on statutory requirements; and
- Recomputed the annual maintenance-of-effort (MOE) calculations to check the accuracy and completeness of the 50% excess of qualified fines, penalties, and assessments remitted to the State.

#### Distribution Testing

- Performed a risk evaluation of the county and the court and identified violation types susceptible to errors due to statutory changes during the audit period:
  - Based on the risk evaluation performed, tested a total of 79 cases for 10 violation types;
  - Recomputed sample case distributions and compared them to actual distributions;
  - Quantified the total dollar amount of the material underremittances to the State and county; errors found were not projected to the population; and
- Scheduled parking surcharge revenues collected from entities that issue parking citations within the county to ensure that revenues were correct, complete, and remitted in accordance with State statutory requirements.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.



We did not audit the county, the court, or the various parking citation issuing agencies' financial statements. We considered the county and court's internal controls only to the extent necessary to plan the audit. We did not review the timeliness of any court revenue remittances that the county and court may be required to make under GC sections 70353 and 77201.1(b), included in the TC-31.

## **Conclusion**

Our audit found that \$182,730 in state court revenues was underremitted to the State Treasurer. Specifically, we found that Solano County underremitted by \$10,193 to the State Treasurer the 50% excess of qualified fines, fees, and penalties and that the following three entities underremitted by \$172,537 parking surcharges to the State Treasurer via Solano County:

- Solano County Community College District by \$96,451;
- Cal Maritime by \$64,735; and
- City of Fairfield by \$11,351.

Our audit also found that the following two entities underremitted a total of \$112,996 in parking surcharges to Solano County:

- Solano County Community College District by \$65,870; and
- Cal Maritime by \$47,096.

Subsequent to the issuance of the draft report, Solano County Community College District made a payment, totaling \$162,321, to Solano County for the following:

- Parking surcharges of \$96,451 owed to the State Treasurer that the county remitted to the SCO on March 15, 2018, for deposit with the State Treasurer, and
- Parking surcharges of \$65,870 owed to Solano County.

The county is not responsible for collection of underremitted state amounts of other entities, but is responsible for remitting amounts received from other entities to the State Treasurer upon receipt. The SCO's Tax Accounting Unit will follow up with the county, Cal Maritime, and the City of Fairfield regarding the underremittances to the State Treasurer via Solano County. The underremittances are summarized in the Schedule and described in the Findings and Recommendations section of this report.

## **Follow-up on Prior Audit Findings**

The county has satisfactorily resolved all of the findings noted in our prior audit report, issued January 10, 2012.

**Views of  
Responsible  
Officials**

We issued a draft audit report on January 8, 2018, and received the following responses:

- Solano County: Simona Padilla-Scholtens, Auditor-Controller, responded by letter dated February 8, 2018 (Attachment A), agreeing with the audit results for Findings 1 through 3.
- Solano County Superior Court of California: Brian Taylor, Court Executive Officer, responded by letter dated March 7, 2018 (Attachment B), agreeing that there was no finding on the revenue processing and reporting system of the court.
- Cal Maritime: Leora Freedman, Assistant Vice Chancellor and Chief Counsel, Academic and Student Affairs, responded by letter dated February 9, 2018 (Attachment C), disagreeing with the audit results for Finding 2 related to Cal Maritime's underremitted parking surcharges.
- City of Fairfield: Myles Dixon, Principal Accountant, responded by email on January 29, 2018, agreeing with the audit results for Finding 2 related to the City of Fairfield.
- Solano County Community College District: Robert Diamond, Vice President – Finance and Administration, responded by email on February 15, 2018, agreeing with the audit results for Findings 1 and 2 related to Solano County Community College District.

**Restricted Use**

This final report is solely intended for the information and use of Solano County; Superior Court of California, Solano County; Solano County Community College District; Cal Maritime; City of Fairfield; 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 the distribution of this report, which is a matter of public record and is available on the SCO website at [www.sco.ca.gov](http://www.sco.ca.gov).

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

August 10, 2018

## Schedule— Summary of Audit Findings by Fiscal Year Affecting Remittances to the State Treasurer July 1, 2009, through June 30, 2016

Finding <sup>1</sup>	Fiscal Year - Underremitted							Total	Reference <sup>2</sup>
	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16		
<b>Underremitted to the State</b>									
<u>Solano County</u>									
State Trial Court Improvement and Modernization Fund – GC §77205	\$ 21	\$ 3,125	\$ 2,770	\$ 4,277	\$ -	\$ -	\$ -	\$ 10,193	Finding 1
<b>Underremitted to Solano County (Parking Surcharges)</b>									
<u>Solano County Community College District</u>									
State Trial Court Trust Fund – GC §76000.3(a)	-	3,984	4,218	8,457	12,339	7,875	-	36,873	Finding 2
State Court Facilities Construction Fund – Immediate and Critical Needs Account – GC §70372(b)	1,325	2,906	3,944	8,278	12,285	7,875	-	36,613	Finding 2
State Court Facilities Construction Fund – GC §70372(b)	848	2,469	2,109	4,229	6,170	3,938	-	19,763	Finding 2
State General Fund – GC §40225(d)		224	627	1,288	1,063		-	3,202	Finding 2
<u>Cal Maritime</u>									
State Trial Court Trust Fund – GC §76000.3(a)	-	2,700	4,092	4,380	4,623	3,891	2,661	22,347	Finding 2
State Court Facilities Construction Fund – Immediate and Critical Needs Account – GC §70372(b)	4,173	4,437	4,092	4,380	4,623	3,891	2,661	28,257	Finding 2
State Court Facilities Construction Fund – GC §70372(b)	2,087	2,219	2,046	2,190	2,312	1,946	1,331	14,131	Finding 2
<u>City of Fairfield</u>									
State Trial Court Trust Fund – GC §76000.3(a)	-	4,152	-	-	-	-	-	4,152	Finding 2
State Court Facilities Construction Fund – Immediate and Critical Needs Account – GC §70372(b)	546	3,500	-	-	-	-	-	4,046	Finding 2
State Court Facilities Construction Fund – GC §70372(b)	273	2,880	-	-	-	-	-	3,153	Finding 2
Total Parking Surcharges Underremitted to Solano County	\$ 9,252	\$ 29,471	\$ 21,128	\$ 33,202	\$ 43,415	\$ 29,416	\$ 6,653	\$ 172,537	
Total Underremittance to the State	\$ 9,273	\$ 32,596	\$ 23,898	\$ 37,479	\$ 43,415	\$ 29,416	\$ 6,653	\$ 182,730	

<sup>1</sup>The identification of state revenue account titles should be used to ensure proper recording when preparing the TC-31.

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

# Findings and Recommendations

**FINDING 1—  
Underremitted 50%  
excess of qualified  
fines, fees, and  
penalties**

Solano County underremitted by \$10,193 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the period of July 1, 2009, through June 30, 2013.

GC section 77205 requires the county to remit 50% of qualified revenues that exceed the amount specified in GC section 77201.1(b)(2) for the fiscal year (FY) 1998-99, and each fiscal year thereafter, to the State Trial Court Improvement and Modernization Fund.

The following table calculates:

- The excess qualified revenues amount above the base; and
- The county’s underremittance to the State Treasurer by comparing 50% excess of qualified revenues amount above the base to actual county remittance:

Fiscal Year	Qualifying Revenues	Base Amount	Excess Amount Above the Base	50% Excess Amount Due the State	County Remittance to the State Treasurer	County Under-remittance to the State Treasurer <sup>1</sup>
2009-10	\$ 3,767,247	\$ 2,708,758	\$ 1,058,489	\$ 529,244	\$ (529,223)	\$ 21
2010-11	3,437,540	2,708,758	728,782	364,391	(361,266)	3,125
2011-12	3,043,695	2,708,758	334,937	167,469	(164,699)	2,770
2012-13	2,772,809	2,708,758	64,051	32,025	(27,748)	4,277
Total						<u>\$ 10,193</u>

<sup>1</sup>Should be identified on the TC-31 as State Trial Court Improvement and Modernization Fund – GC §77205

The error occurred because the county understated fines by \$20,386. The actual adjustment is \$10,193, representing 50% of the understated fines. The \$20,386 is calculated as follows:

- Overstatement of \$3,874 in the county’s FY 2009-10 MOE calculations;
- Understatement of \$12,872 by Solano Community College District to the County General Fund. This represents the first four years of the \$26,348 audit adjustment discussed in Finding 2; and
- Understatement of \$11,388 by Cal Maritime to the County General Fund. This represents the first four years of the \$18,838 audit adjustment discussed in Finding 2.

Recommendation

We recommend that the county remit \$10,193 to the State Treasurer and report on the TC-31 an increase to the State Trial Court Improvement and Modernization Fund.

Solano County, Solano County Community College District, and the City of Fairfield's Response

Solano County, Solano County Community College District, and the City of Fairfield agree with their portions of the finding.

Cal Maritime's Response

Cal Maritime provided additional information in its response to the draft report, as well as subsequent supporting documentation that revised the calculation for parking surcharges in Finding 3. (See Cal Maritime Response in Finding 3.) As a result, the qualifying revenues decreased by \$507 during the first four years of the audit period, from \$11,895 to \$11,388.

SCO Comment

We updated our finding based on additional information provided by Cal Maritime. As a result, the 50% excess of qualified fines, fees, and penalties decreased by \$256, from \$10,449 to \$10,193.

Total qualifying revenues decreased by \$512, consisting of \$507 in Cal Maritime parking surcharges and a \$5 rounding amount in the MOE calculation for FY 2009-10. The 50% excess of qualified fines, fees, and penalties decreased by \$256 (50% of \$512).

**FINDING 2—  
Underremitted  
parking surcharges**

State parking surcharges, totaling \$172,537, were underremitted to the State Treasurer. The amount owed consist of unremitted amounts from the Solano County Community College District of \$96,451; Cal Maritime of \$64,735; and the City of Fairfield of \$11,351.

In addition, county parking surcharges, totaling \$112,966, were underremitted to Solano County, consisting of \$65,870 from Solano County Community College District and \$47,096 from Cal Maritime.

**Solano County Community College District**

Solano County Community College District underremitted the following state surcharges from its parking collection, totaling \$96,451:

- \$3 to the State Trial Court Trust Fund account for every parking fine or forfeiture from January 2010 through June 2015, totaling \$36,873;
- \$3 to the State Court Facilities Construction Fund – Immediate and Critical Needs Account (ICNA) for every parking fine or forfeiture from July 2009 through June 2015, totaling \$36,613;
- \$1.50 to the State Court Facilities Construction Fund for every parking fine or forfeiture from July 2009 through June 2015, totaling \$19,763; and
- 50% of any penalties collected from equipment and tag violations from January 2011 through June 2014, totaling \$3,202.

Solano County Community College District also underremitted the following county surcharges to Solano County from its parking collection, totaling \$65,870:

- \$2.50 to both the County Criminal Justice Facilities Fund and the County Courthouse Construction Fund. One dollar of each distribution should be transferred to the County General Fund to be included as qualified revenues for 50% excess of qualified fines, fees, and penalties calculation. The error resulted in underremittance of \$65,870 to Solano County, consisting of \$26,348 deposit to the County General Fund; \$19,761 deposit to the County Criminal Justice Facilities Fund; and \$19,761 deposit to the County Courthouse Construction Fund.

### **Cal Maritime**

Cal Maritime underremitted the following state surcharges from its parking collection, totaling \$64,735:

- \$3 to the State Trial Court Trust Fund account for every parking fine or forfeiture from January 2010 through June 2016, totaling \$22,347;
- \$3 to the State Court Facilities Construction Fund – ICNA for every parking fine or forfeiture from July 2009 through June 2016, totaling \$28,257; and
- \$1.50 to the State Court Facilities Construction Fund for every parking fine or forfeiture from July 2009 through June 2016, totaling \$14,131.

Cal Maritime also underremitted the following county surcharges to Solano County from its parking collection, totaling \$47,096:

- \$2.50 to both the County Criminal Justice Facilities Fund and the County Courthouse Construction Fund. One dollar of each distribution should be transferred to the County General Fund to be included as qualified revenues for 50% excess of qualified fines, fees, and penalties calculation. The error resulted in underremittance of \$47,096 to Solano County, consisting of \$18,838 deposit to the County General Fund; \$14,129 deposit to the County Criminal Justice Facilities Fund; and \$14,129 deposit to the County Courthouse Construction Fund.

### **City of Fairfield**

City of Fairfield underremitted the following state surcharges from its parking collection, totaling \$11,351:

- \$3 to the State Trial Court Trust Fund account for every parking fine or forfeiture from July 2010 through June 2011, totaling \$4,152;
- \$3 to the State Court Facilities Construction Fund – ICNA for every parking fine or forfeiture from July 2009 through June 2011, totaling \$4,046; and
- \$1.50 to the State Court Facilities Construction Fund for every parking fine or forfeiture from July 2009 through June 2011, totaling \$3,153.

### Cause

The errors occurred because Solano County Community College District, Cal Maritime, and the City of Fairfield misinterpreted the required parking distributions.

### Criteria

Vehicle Code (VC) section 40200.4 requires the processing agencies to deposit with the County Treasurer all sums due the county from parking violations. GC section 76000(c) requires the county to deposit the \$2.50 parking penalty, from each parking fine or forfeiture collected, in the County Courthouse Construction Fund and the County Criminal Justice Facilities Construction Fund. Furthermore, this section requires \$1 of each \$2.50 parking penalty to be distributed to the County General Fund.

VC section 40225(d) allows equipment and registration tag violations to be processed as civil penalties. Upon proof of correction, the civil penalty is reduced to \$10. Any penalties collected on equipment and tag violations are distributed as follows: 50% to the issuing processing agency and 50% to the State Treasurer.

GC section 70372(b) requires the issuing agencies to distribute a state surcharge of \$4.50 to the State Court Facilities Construction Fund for every parking fine or forfeiture starting January 2009. GC section 76000.3 requires the issuing agencies to distribute to the State Trial Court Trust Fund an additional State Surcharge of \$3.00 for every parking fine or forfeiture starting January 2011.

### Effect

The incorrect distributions had the following effects on Solano County Community College District, Cal Maritime, and the City of Fairfield parking surcharges:

Account Title	Underremitted			
	Solano County Community College District	Cal Maritime	City of Fairfield	Total
<b><u>Underremitted to Solano County (Parking Surcharges)</u></b>				
State Trial Court Trust Fund – GC §76000.3	\$ 36,873	\$ 22,347	\$ 4,152	\$ 63,372
State Court Facilities Construction Fund – ICNA – GC §70372(b)	36,613	28,257	4,046	68,916
State Court Facilities Construction Fund – GC §70372(b)	19,763	14,131	3,153	37,047
State General Fund – GC §40225(d)	3,202	-	-	3,202
Total – State Treasurer	<u>96,451</u>	<u>64,735</u>	<u>11,351</u>	<u>172,537</u>
County General Fund	26,348	18,838	-	45,186
County Criminal Justice Facilities Fund	19,761	14,129	-	33,890
County Courthouse Construction Fund	19,761	14,129	-	33,890
Total – County Funds	<u>65,870</u>	<u>47,096</u>	<u>-</u>	<u>112,966</u>
Total	<u>\$ 162,321</u>	<u>\$ 111,831</u>	<u>\$ 11,351</u>	<u>\$ 285,503</u>

### **Subsequent Payments**

Subsequent to the issuance of the draft audit report, Solano County Community College District made a \$162,321 payment on March 8, 2018, to Solano County, consisting of:

- State court revenues of \$96,451 owed to the State Treasurer for the accounts identified above that the county remitted to the State Controller on March 15, 2018, for deposit to the State Treasurer; and
- Local court revenues of \$65,870 owed to Solano County for the accounts identified above.

### **Recommendation**

We recommend that:

- Cal Maritime remit \$64,735 to Solano County for increases of \$22,347 to the State Trial Court Trust Fund; \$28,257 to the State Court Facilities Construction Fund – ICNA; and \$14,131 to the State Court Facilities Construction Fund for subsequent remittance by the county to the State Treasurer;
- The City of Fairfield remit \$11,351 to Solano County for increases of \$4,152 to the State Trial Court Trust Fund; \$4,046 to the State Court Facilities Construction Fund – ICNA; and \$3,153 to the State Court Facilities Construction Fund for subsequent remittance by the county to the State Treasurer;
- Solano County remit to the State Treasurer any portion of the \$76,086 that it receives from Cal Maritime and the City of Fairfield (two previous bullets); and
- Cal Maritime remit \$47,096 to Solano County for \$18,838 deposit to the County General Fund; \$14,129 deposit to the County Criminal Justice Facilities Fund; and \$14,129 deposit to the County Courthouse Construction Fund.

### **Solano County Community College District and the City of Fairfield's Response**

Solano County Community College District and the City of Fairfield agree with their portions of the finding.

### **Cal Maritime's Response**

Cal Maritime asserts that the SCO adjustment should be reduced by \$10,274, from \$122,331 to \$112,057.

Cal Maritime asserts that underremitted court revenues before February 2015 are time-barred pursuant to California Code of Civil Procedure section 338, subdivision (a). However, Cal Maritime responded to the calculation with the understanding that any statements about the accuracy of understated or underremitted court revenues do not constitute a waiver of its position that certain underremitted court revenues are time-barred.



Cal Maritime provided a schedule showing that the parking surcharges finding should be based on 9,419 parking violations rather than the 9,764 used by SCO in calculating the amount owed, a difference of 345. Subsequent to the draft response letter, Cal Maritime provided documentation supporting the updated parking violation amounts. Cal Maritime also indicated that the adjustment to the State Trial Court Trust Fund should commence December 7, 2009, rather than the July 1, 2009 date used by SCO.

SCO Comment

Based on Cal Maritime's response and review of additional documentation, we revised the finding by \$10,500, from \$122,331 to \$111,831. Cal Maritime supported the revised parking violation numbers and was correct in the effective date related to the State Trial Court Trust Fund adjustment.

The \$226 difference between Cal Maritime's revised calculation of \$112,057 and SCO's revised audit finding of \$111,831 is due to the elimination of an equipment and registration violation adjustment of \$229 and a \$3 rounding adjustment.

**FINDING 3—  
Penalties not assessed  
on Health and Safety  
fees**

The Solano County Probation Department did not assess the 20% state surcharge, and other state and local penalties on the Criminal Laboratory Analysis Fee pursuant to Health and Safety (H&S) Code section 11372.5 and on the Drug Program Fee pursuant to H&S Code section 11372.7. The incorrect assessments occurred from April 2011 through January 2015. The error occurred because Probation Department personnel overlooked the statutory requirements to assess penalties on the fee.

H&S Code section 11372.5 requires every person convicted of violating certain Health and Safety and Business and Professions codes to pay a Criminal Laboratory Analysis Fee of fifty dollars (\$50) for each separate offense.

H&S Code section 11372.7 requires each person convicted of a violation of this chapter to pay a Drug Program Fee in an amount not to exceed one hundred and fifty dollars (\$150) for each separate offense.

The SCO Trial Court Revenue Distribution Guidelines state that the Criminal Laboratory Analysis Fee and Drug Program Fee should be accounted for as fines subject to state penalties, local penalties, the 20% state surcharge, DNA penalties, court facilities penalty assessment, and the 2% automation fee.

Failure to assess fines correctly caused state penalties, local penalties, the 20% state surcharge, DNA penalties, court facilities penalty assessment, and the 2% automation fee to be understated. In addition, revenues reported to the State Trial Court Improvement and Modernization Fund under the MOE formula were understated. We did not measure the fiscal effect as the amount did not appear material.

Recommendation

We recommend that the Probation Department establish procedures to ensure that penalties are assessed on Health and Safety Fees, consistent with statutory requirements.

Solano County's Response

Solano County agrees with the finding and recommendation.

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

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OFFICE OF THE AUDITOR-CONTROLLER

SIMONA PADILLA-SCHOLTENS, CPA  
Auditor-Controller

PHYLLIS TAYNTON, CPA  
Assistant Auditor-Controller



SOLANO  
COUNTY

675 Texas Street, Suite 2800  
Fairfield, CA 94533-6338  
(707) 784-6280  
Fax (707) 784-3553

[www.solanocounty.com](http://www.solanocounty.com)

February 8, 2018

Jim L Spano, CPA  
Assistant Division Chief  
State Controller's Office  
Division of Audits  
Post Office Box 942850  
Sacramento, CA 94250-5874

Dear Mr. Spano:

We received your draft audit report pertaining to Solano County's court revenues for the period July 1, 2009 through June 30, 2016.

Finding #1: Underremitted 50% excess of qualified fines, fees and penalties

We agree with the finding and recommendation. However, the underremittance of \$10,449 by the County was a result of the Cities/Schools underremittance. We will remit this payment upon receipt from the Cities/Schools. We do not believe we should be subject to the 30 days and additional interest.

Finding #2: Underremitted parking surcharges

We agree with the finding and recommendation.

Finding #3: Penalties not assessed on Health and Safety fees

We agree with the revised finding and recommendation.

Probation Department will meet with the court to review the statutory requirement related to Penalty Assessment on certain Health and Safety cases. Probation will also work with the court to revise the current minute order to ensure that all the required information is included.

If you have any questions, please call me at (707) 784-6287.

Sincerely,

  
Simona Padilla-Scholten, CPA  
Auditor-Controller

**Attachment B—  
Superior Court’s Response to Draft Audit Report**

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Superior Court of California,  
County of Solano



March 7, 2018

Mr. Jim Spano  
Assistant Chief, Division of Audits  
Office of State Controller  
Division of Audits, Local Government Compliance, Court Revenue Program  
3301 C Street, Suite 700  
Sacramento, CA 95816

Dear Mr. Spano:

We have reviewed the Office of the State Controller's draft audit report of the Solano County court's revenues for the period of July 1, 2009 through June 30, 2016. The scope of the audit included a review of the revenue processing and reporting systems of the county, the court, and other collecting entities in the county.

The audit disclosed no issue on the revenue processing and reporting systems of the court. We agree with this conclusion.

If you have any questions concerning our response, please contact Agnes Shappy at 707 207 7470.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Taylor", is written over a faint, larger version of the same signature.

Brian Taylor  
Court Executive Officer  
Superior Court of California, County of Solano

cc: John B. Ellis, Presiding Judge  
Agnes Shappy, Chief Financial Officer  
Simona Padilla-Scholtens, County Auditor-Controller

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Hall of Justice  
600 Union Avenue  
Fairfield, CA 94533

Law and Justice Center  
530 Union Avenue  
Fairfield, CA 94533

Solano Justice Center  
321 Tuolumne Street  
Vallejo, CA 94590

**Attachment C—  
Cal Maritime's Response to Draft Audit Report**

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Office of General Counsel  
401 Golden Shore, 4th Floor  
Long Beach, CA 90802-4210  
[www.calstate.edu](http://www.calstate.edu)

**Leora D. Freedman**  
Assistant Vice Chancellor & Chief Counsel—  
Academic & Student Affairs

Phone (562) 951-4500  
[lfreedman@calstate.edu](mailto:lfreedman@calstate.edu)

February 9, 2018

**Via E-Mail/PDF ([jspano@sco.ca.gov](mailto:jspano@sco.ca.gov))**

Mr. Jim L. Spano, CPA  
Assistant Division Chief  
California State Controller  
Division of Audits  
P.O. Box 942850  
Sacramento, CA 94250-5874

**Re: California State University Maritime Academy Response to California State  
Controller’s Draft Audit Report dated January 2018 of Solano County Court Revenues  
(July 1, 2009-June 30, 2016)**

Dear Mr. Spano,

I write in response to correspondence dated January 8, 2018 from Jeffrey V. Brownfield, CPA, Chief, Division of Audits, California State Controller, to Ashley Andersen, University Controller & Director of Fiscal Affairs, California State University Maritime Academy (the “CSU”). Thank you for agreeing to give the CSU until February 9 to respond to the draft audit report (the “Draft Report”) that was enclosed with Mr. Brownfield’s correspondence. I trust that you do not need to receive a hard copy of this correspondence via U.S. Mail, but please let me know if that is not the case.

Although the CSU is not the subject of the above-referenced audit, the State Controller maintains that it has authority to require the CSU to pay underremitted court revenues as part of the State Controller’s audit of Solano County. The State Controller also claims that there are effectively no time limits on its right to collect court revenues notwithstanding California’s three-year statute of limitations on statutory liabilities, set forth in Code of Civil Procedure Section 338. The CSU disagrees with the State Controller’s statutory interpretation of Code of Civil Procedure Section 338(a) and (d), and objects to the assessment of any underremitted court revenues barred by the three-year statute of limitations. The CSU also disputes the State Controller’s calculations of underremitted court revenues, as well as the basis for (not to

**CSU CAMPUSES**  
Bakersfield  
Channel Islands  
Chico  
Dominguez Hills  
East Bay

Fresno  
Fullerton  
Humboldt  
Long Beach  
Los Angeles  
Maritime

Monterey Bay  
Northridge  
Pomona  
Sacramento  
San Bernardino  
San Diego

San Francisco  
San José  
San Luis Obispo  
San Marcos  
Sonoma  
Stanislaus



Mr. Jim L. Spano, CPA  
February 9, 2018  
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mention the logic of) charging interest to a sister agency (the CSU is the State of California acting in its higher education capacity).

1. Actions arising out of a statutory liability must be brought within three years.

The Draft Report explains that “[w]henver the State is entitled to a portion of ... [court revenues], **the court is required** by Government Code ... 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.**” (Draft Report at p. 1; emphasis added.) Government Code Section 68103 **requires that the State Controller “check the reports and records received by him with the transmittals of such fines,”** and authorizes the State Controller to bring suit to collect from the Court. (Emphasis added.)

To the extent that the Government Code contemplates that the *State* could sue the *CSU* for payment of underremitted court revenues, any such action would be based on statutory liability and would have to be brought within three years of when the State Controller discovered (or reasonably should have discovered) that payments had not been made in accordance with Government Code Section 68101. (See Code of Civil Procedure Section 338(a)). Government Code Section 68101 requires that the County transmit a record of its collection of fines to the State Controller at least monthly (at the same time the warrant is transmitted to the State Treasurer), therefore, the State Controller was – or reasonably should have been – on notice of non-payment no more than 30 days after each monthly payment was due. Any legal action to collect underremitted funds would therefore be limited in scope to those court revenues that accrued within three years of the filing of the action. Therefore, if an action were filed in March 2018, it could not properly seek to collect underremitted court revenues that had accrued prior to February 2015.

The CSU’s efforts to discuss this issue with the State Controller over the last few years have not been constructive. The State Controller takes the position (without providing authority) that the three year statute of limitations will not begin to run until a “reporting error” has been discovered via an audit. (See, e.g., correspondence dated March 22, 2017 from Richard J. Chivaro, Chief Counsel, Office of State Controller Betty T. Yee, to Leora Freedman, attached as Exhibit A). Under this logic, there is no limit on how far back a collection action may reach as long as the State Controller delays its audit – and its “discovery” of the facts.

Mr. Jim L. Spano, CPA  
February 9, 2018  
Page 3

2. The State Controller has miscalculated the amount of underremitted court revenues.

At the State Controller's request, the CSU hereby responds to calculations in the Draft Report covering the entire time period of the audit (2009-2016), with the understanding that any statements about the accuracy of understated or underremitted court revenues do not constitute a waiver of CSU's position that certain underremitted court revenues are time barred.

Finding	Draft Audit Report:	CSU Calculation:
Finding #1: Understatement to County General Fund	\$5,947.50 (50% of \$11,895)	\$,5694 (50% of \$11,388)
Finding #2: Total Underremitted Parking Surcharges	\$122,331	\$112,057

The discrepancies between the Draft Report and CSU's calculations are set forth in the worksheet attached as Exhibit B, and result from the following errors.

- State Trial Court Trust. Government Code Section 76000.3 did not become effective until December 7, 2010; however, the Draft Report includes the additional \$3 charge beginning July 1, 2009. On or about January 31, 2018, the State Controller acknowledged this error and agreed to revise the underremittance number to \$21,642. However, the CSU's calculation still differs by \$1,460. (See Exhibit B.)
- State and County Surcharges. The Draft Report overstates the number of parking fines and forfeitures for FY 2009 by 659; for FY 2014 by 3; and for FY 2015 by 86. The Draft Report understates the fines/forfeitures for FY 2010 by 279; for FY 2011 by 64; and for FY 2012 by 60.
- Additional Variance. The Draft Report includes a variance in the amount of \$52 that the CSU has been unable to identify.



Mr. Jim L. Spano, CPA  
February 9, 2018  
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The CSU would welcome the opportunity to meet with your representatives to bring closure to this matter promptly and amicably. Please let me know if you believe that a conference call or face-to-face meeting would be beneficial.

Sincerely,

A handwritten signature in black ink, appearing to read "Leora D. Freedman". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Leora D. Freedman  
Assistant Vice Chancellor & Chief Counsel – Academic & Student Affairs

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

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