## **STANISLAUS COUNTY**

Reissued Audit Report

#### **COURT REVENUES**

July 1, 2006, through June 30, 2014



BETTY T. YEE
California State Controller

October 2019



## California State Controller

October 1, 2019

Dear County, Court, City, and State University Representatives:

The State Controller's Office (SCO) audited Stanislaus County's court revenues for the period of July 1, 2006, through June 30, 2014.

This reissued report updates our previous report dated June 28, 2019. We are reissuing this report to reduce the finding amount for the City of Patterson by \$13,361, from \$58,575 to \$45,214 (see Finding 2). This correction does not impact the other audit findings, which remain unchanged.

Our audit found that \$835,066 in state court revenues was underremitted to the State Treasurer (\$314,553 by Stanislaus County, \$157,851 by California State University [CSU] Stanislaus, \$95,170 by the City of Turlock, \$73,158 by the City of Oakdale, \$45,214 by the City of Patterson, \$52,616 by the City of Ceres, \$45,179 by the Stanislaus County Sheriff, \$22,080 by the City of Riverbank, \$15,796 by the City of Hughson, \$12,313 by the City of Waterford, and \$1,136 by the City of Newman).

In addition, we found that \$209,362 in local parking surcharges was underremitted to Stanislaus County (\$179,122 by CSU Stanislaus and \$30,240 by the City of Oakdale).

To date, the State Treasurer has received \$324,006 (\$272,681 from Stanislaus County, \$22,080 from the City of Riverbank, \$15,796 from the City of Hughson, \$12,313 from the City of Waterford, and \$1,136 from the City of Newman).

The county should remit \$41,872 to the State Treasurer when it receives payment for Finding 1 from CSU Stanislaus and the City of Oakdale, as well as any amounts received for Finding 2 from CSU Stanislaus, the Stanislaus County Sheriff, and the cities of Ceres, Oakdale, Patterson, and Turlock. The county is not responsible for collecting the underremitted amounts from these entities, but is responsible for remitting amounts owed by the entities to the State Treasurer upon receipt.

Payment to the State Treasurer via the Report to State Controller of Remittance to State Treasurer (TC-31) should include the Schedule of this audit report and state that the amounts are related to the SCO audit period of July 1, 2006, through June 30, 2014.

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.

The underremitted amounts are due no later than 30 days after receipt of this reissued 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 this reissued audit report.

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

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

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

If you have questions regarding payments, TC-31s, or interest and penalties, please contact Jennifer Montecinos, Manager, TAU, by telephone at (916) 324-5961 or by email at lgpsdtaxaccounting@sco.ca.gov.

CSU Stanislaus disputes certain facts related to the conclusions and recommendations contained in this audit report. On September 6, 2019, CSU Stanislaus requested an informal audit review with SCO legal to resolve this dispute.

If you have questions regarding the audit findings, please contact Lisa Kurokawa, Chief, Compliance Audits Bureau, by telephone at (916) 327-3138.

Sincerely,

Original signed by

JIM L. SPANO, CPA Chief, Division of Audits

JLS/hf

Attachment—Recipient Addresses

cc: Terry Withrow, Chair

Stanislaus County Board of Supervisors

Grant Parks, Manager

**Internal Audit Services** 

Judicial Council of California

Julie Nauman, Executive Officer

California Victim Compensation Board

Anita Lee, Senior Fiscal and Policy Analyst

Legislative Analyst's Office

Sandeep Singh, Manager

Local Government Policy Unit

Local Government Programs and Services Division

State Controller's Office

Jennifer Montecinos, Manager

Tax Administration Unit

Local Government Programs and Services Division

State Controller's Office

Richard J. Chivaro, Chief Counsel

State Controller's Office

#### **Recipient Addresses**

Kashmir Gill, Auditor-Controller Stanislaus County 1010 10<sup>th</sup> Street Modesto, CA 95354

Toby Wells, City Manager City of Ceres 2720 2<sup>nd</sup> Street Ceres, CA 95307

Shannon Esenwein, Finance Director City of Hughson 7018 Pine Street, P.O. Box 9 Hughson, CA 95326

Albert Avila, Finance Director City of Oakdale 280 North Third Avenue Oakdale, CA 95361

Marisela Garcia, Director of Finance City of Riverbank 6707 Third Street Riverbank, CA 95367

The Honorable Amy Bublak, Mayor City of Turlock 156 S. Broadway, Suite 230 Turlock, CA 95380

Michael Pitcock, City Manager City of Waterford 101 East Street Waterford, CA 95386 Hugh K. Swift, Court Executive Officer Superior Court of California Stanislaus County 800 11<sup>th</sup> Street Modesto, CA 95354

Darrel Haydon, Associate Vice President of Financial Services Audit Services, California State University Stanislaus One University Circle Turlock, CA 95382

Lewis Humphries, Finance Director City of Newman 938 Fresno Street, P.O. Box 787 Newman, CA 95360

Saadiah Ryan, Finance Director City of Patterson City Hall, P.O. Box 667 Patterson, CA 95363

Brooke Freeman, Business Manager Stanislaus County Sheriff 250 East Hackett Road Modesto, CA 95358

# **Contents**

#### **Reissued Audit Report**

Summary	1
Background	2
Objective, Scope, and Methodology	2
Conclusion	3
Follow-up on Prior Audit Findings	3
Views of Responsible Officials	4
Reason for Reissuance	4
Restricted Use	4
Revised Schedule—Summary of Audit Findings Affecting Remittances to the State Treasurer	5
Revised Findings and Recommendations	6
Attachment A—County's Response to Draft Audit Report	
Attachment B—Superior Court's Response to Draft Audit Report	
Attachment C—California State University, Stanislaus's Response to Draft Audit Report	
Attachment D—City of Hughson's Resnanse to Draft Audit Report	

## **Reissued 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 Stanislaus County on the Report to State Controller of Remittance to State Treasurer form (TC-31) for the period of July 1, 2006, through June 30, 2014.

Our audit found that \$835,066 in state court revenues was underremitted to the State Treasurer. Specifically, we found that Stanislaus County underremitted a total of \$314,553 in state court revenues to the State Treasurer because it:

- Underremitted the 50% excess of qualified revenues by \$29,899;
- Underremitted parking surcharges by \$59,867; and
- Underremitted State Health and Safety bail bond forfeitures by \$224,787.

In addition, our audit found that the following 10 entities underremitted a total of \$520,513 in parking surcharges to the State Treasurer via Stanislaus County:

- California State University (CSU) Stanislaus by \$157,851;
- City of Turlock by \$95,170;
- City of Oakdale by \$73,158;
- City of Patterson by \$45,214;
- City of Ceres by \$52,616;
- Stanislaus County Sheriff by \$45,179;
- City of Riverbank by \$22,080;
- City of Hughson by \$15,796;
- City of Waterford by \$12,313; and
- City of Newman by \$1,136.

Our audit also found that the following two entities underremitted a total of \$209,362 in parking surcharges to Stanislaus County:

- CSU Stanislaus by \$179,122; and
- City of Oakdale by \$30,240.

#### **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 to the State Treasurer, pursuant to the TC-31 process.

The audit period was July 1, 2006, through June 30, 2014.

To achieve our objective, we performed the following procedures:

#### 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 the reasonableness of the revenus distributions based on statutory requirements; and
- Recomputed the annual maintenance-of-effort calculation for all fiscal years in the audit period to check the accuracy and completeness of the 50% excess of qualified fines, penalties, and assessments remitted to the State.

#### **Distribution Testing**

 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;

- 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 evaluations, judgmentally selected a non-statistical sample of 30 cases for seven violation types. Errors found were not projected to the intended population. Then, we:
  - Recomputed the sample case distributions and compared them to actual distributions; and
  - Calculated the total dollar amount of the significant underremittances to the State and county.

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 objective.

We did not audit the finanical statements of the county, the court, or the various agencies that issue parking citations. We considered the county and court's internal controls only to the extent necessary to plan the audit. We did not review 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**

As a result of performing the audit procedures, we found that \$835,066 in state court revenues was underremitted to the State Treasurer (\$314,553 by Stanislaus County, \$157,851 by CSU Stanislaus, \$95,170 by the City of Turlock, \$73,158 by the City of Oakdale, \$45,214 by the City of Patterson, \$52,616 by the City of Ceres, \$45,179 by the Stanislaus County Sheriff, \$22,080 by the City of Riverbank, \$15,796 by the City of Hughson, \$12,313 by the City of Waterford, and \$1,136 by the City of Newman).

In addition, we found that \$209,362 in local parking surcharges was underremitted to Stanislaus County (\$179,122 by CSU Stanislaus and \$30,240 by the City of Oakdale).

#### Follow-up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, issued May 30, 2008.

#### Views of Responsible Officials

We issued a draft report on September 28, 2018.

Kashmir Gill, Auditor-Controller, Stanislaus County responded by letter dated October 9, 2018 (Attachment A), agreeing with the audit results.

Hugh K. Swift, Court Executive Officer, Superior Court of California, Stanislaus County, responded by letter dated October 3, 2018 (Attachment B), agreeing with the audit results.

Thy Monaco, University Counsel, California State University, Stanislaus, responded by letter dated October 11, 2018 (Attachment C), disagreeing with the audit results.

Shannon Esenwein, Director of Finance and Administrative Services, City of Hughson, responded by letter dated October 9, 2018 (Attachment D), agreeing with the audit results.

On September 13, 2019, we informed Saadiah Ryan, Finance Director, City of Patterson; and Jillian Echavarria, Assistant Auditor-Controller, Stanislaus County, of this reissued report and the reason for reissuance.

#### Reason for Reissuance

This reissued report updates our previous report dated June 28, 2019. We are reissuing this report to reduce the finding amount for the City of Patterson by \$13,361, from \$58,575 to \$45,214 (see Finding 2). This correction does not impact the other audit findings, which remain unchanged.

#### **Restricted Use**

This reissued audit report is solely for the information and use of Stanislaus County; Superior Court of California, Stanislaus County; CSU Stanislaus; City of Ceres; City of Hughson; City of Newman; City of Oakdale; City of Patterson; City of Riverbank; City of Turlock; City of Waterford; 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 audit report, which is a matter of public record and is available on the SCO website at www.sco.ca.gov.

Original signed by

JIM L. SPANO, CPA Chief, Division of Audits

October 1, 2019

#### Revised Schedule— Summary of Audit Findings Affecting Remittances to the State Treasurer July 1, 2006, through June 30, 2014

	Fiscal Year									
Finding <sup>1</sup>	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	Total	Reference
Underremitted 50% excess of qualified revenues Stanislaus County										
State Trial Court Improvement and Modernization Fund – GC §77205	\$ 3,694	\$ 827	\$ (2,052)	\$ 5,486	\$ 5,486	\$ 5,161	\$ 5,380	\$ 5,917	\$ 29,899	
Total Underremitted 50% excess of qualified fines, fees, and penalties to the State	3,694	827	(2,052)	5,486	5,486	5,161	5,380	5,917	29,899	Finding 1
Underremitted state parking surcharges	<u> </u>									
<u>City of Ceres</u> State General Fund – VC §40225(d)	6,577	6,577	7,854	8,381	8,370	5,854	3,659	5,344	52,616	
CSU Stanislaus										
State Trial Court Trust Fund – GC §76000.3(a)	-	-	-	-	6,717	12,459	13,116	14,727	47,019	
State Court Facilities Construction Fund – ICNA – GC §70372(b)	-	-	6,717	13,434	13,434	12,459	13,116	14,727	73,887	
State Court Facilities Construction Fund – GC §70372(b)	-	-	3,359	6,717	6,717	6,230	6,558	7,364	36,945	
<u>City of Hughson</u> State General Fund – VC §40225(d)	1,974	1,974	1,689	2,140	3,926	706	1,053	2,334	15,796	
City of Newman										
State General Fund – VC §40225(d)	142	142	283	238	137	46	23	125	1,136	
<u>City of Oakdale</u>										
State Trial Court Trust Fund – GC §76000.3(a)	-	-	-	-	1,260	3,024	3,024	3,024	10,332	
State Court Facilities Construction Fund - ICNA - GC §70372(b)	-	-	1,260	3,024	3,024	3,024	3,024	3,024	16,380	
State Court Facilities Construction Fund – GC §70372(b)	-	-	630	1,512	1,512 6,209	1,512	1,512 6,209	1,512	8,190 38,256	
State General Fund – VC §40225(d)	-	-	7,211	6,209	6,209	6,209	6,209	6,209	38,230	
<u>City of Patterson</u> State General Fund – VC \$40225(d)		130	72	2,446	11,111	9,377	8,924	13,154	45,214	
City of Riverbank	_	130	72	2,440	11,111	7,511	0,724	13,134	45,214	
State General Fund – VC \$40225(d)	2,760	2,760	1,700	5,347	1,233	2,760	2,760	2,760	22,080	
Stanislaus County Auditor-Controller (Court Incorrectly distributed VC 40225(d) as surcharges for Modesto/Oakdale)	_,,	_,,	-,	-,	-,	_,,	_,,	_,,	,	
State Court Facilities Construction Fund – ICNA – GC §70372(b)	_	_	(4,095)	_	_	_	_	_	(4,095)	
State Court Facilities Construction Fund – GC §70372(b)	-	-	(2,047)	-	-	-	-	-	(2,047)	
State General Fund – VC §40225(d)	3,920	18,257	43,832	-	-	-	-	-	66,009	
Stanislaus County Sheriff										
State General Fund – VC §40225(d)	5,647	5,647	4,662	9,349	8,065	5,847	2,867	3,095	45,179	
City of Turlock										
State General Fund – VC §40225(d)	8,315	18,040	27,199	16,940	13,309	4,319	1,670	5,378	95,170	
City of Waterford										
State General Fund – VC §40225(d)	1,539	1,539	3,763	1,802	1,355	481	737	1,097	12,313	
Total Parking Surcharges Underremitted to Stanislaus County	30,874	55,066	104,089	77,539	86,379	74,307	68,252	83,874	580,380	Finding 2
Underremitted State Health and Safety bail bond forfeitures										
Stanislaus County										
State General Fund – Health and Safety Code §11502	18,742			42,067	7,350		150,673		218,832	
State Trial Court Improvement and Modernization Fund (2% Automation) – GC §68090.8	510			1,145	200		4,100		5,955	•
Total Underremitted State Health and Safety bail bond forfeitures	19,252			43,212	7,550		154,773		224,787	Finding 3
Total Underremitted to the State	\$ 53,820	\$ 55,893	\$ 102.037	\$ 126,237	\$ 99,415	\$ 79,468	\$ 228,405	\$ 89,791	\$ 835,066	

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

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

### **Revised Findings and Recommendations**

FINDING 1— Underremitted 50% excess of qualified revenues During our recalculation of the 50% excess of qualified revenues, we found that the county underremitted a net of \$29,899 to the State Treasurer for fiscal year (FY) 2006-07 through FY 2013-14.

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 fiscal year (FY) 1998-99, and each fiscal year thereafter, to the State Trial Court Improvement and Modernization Fund.

The following table shows:

- The excess of qualified revenues above the base; and
- The county net underremittances to the State Treasurer by comparing the 50% excess of qualified revenues above the base to actual county remittances:

Fiscal Year	Qualifying Revenues	Base Amount	Excess Amount Above the Base	50% Excess Amount Due the State	County Remittance to the State Treasurer	Under to t	remittance he State easurer <sup>1</sup>
2006-07	\$ 3,935,887	\$ 1,855,169	\$ 2,080,718	\$ 1,040,359	\$ (1,036,665)	\$	3,694
2007-08	4,124,562	1,855,169	2,269,393	1,134,696	(1,133,869)		827
2008-09	3,534,273	1,855,169	1,679,104	839,552	(841,604)		(2,052)
2009-10	3,514,128	1,855,169	1,658,959	829,479	(823,993)		5,486
2010-11	3,561,790	1,855,169	1,706,621	853,310	(847,824)		5,486
2011-12	3,052,190	1,855,169	1,197,021	598,511	(593,350)		5,161
2012-13	2,675,581	1,855,169	820,412	410,207	(404,827)		5,380
2013-14	2,633,860	1,855,169	778,691	389,345	(383,428)		5,917
Total						\$	29,899

<sup>&</sup>lt;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 a net of \$59,797. The actual adjustment is \$29,899, representing 50% of the understated qualified revenues in excess of the base amount. The \$59,797 is calculated as follows:

- Overstatement of \$23,947 by the county to the County General Fund (as discussed in Finding 2);
- Understatement of \$71,648 by CSU Stanislaus to the County General Fund (as discussed in Finding 2); and
- Understatement of \$12,096 by the City of Oakdale to the County General Fund (as discussed in Finding 2).

#### Recommendation

We recommend that the county:

- Establish and implement procedures to properly report parking revenues; and
- Remit \$29,899 to the State Treasurer and report an increase to the State Trial Court Improvement and Modernization Fund on the TC-31.

#### County's Response

The county agrees with this finding.

#### REVISED FINDING 2— Underremitted parking surcharges

During our scheduling of parking surcharges, we found that state parking surcharges, totaling \$580,380, was underremitted to the State Treasurer by the following 11 entities:

- City of Ceres by \$52,616;
- Stanislaus County Auditor-Controller's Office by \$59,867;
- CSU Stanislaus by \$157,851;
- City of Hughson by \$15,796;
- City of Newman by \$1,136;
- City of Oakdale by \$73,158;
- City of Patterson by \$45,214;
- City of Riverbank by \$22,080;
- Stanislaus County Sheriff by \$45,179;
- City of Turlock by \$95,170; and
- City of Waterford by \$12,313.

In addition, we found that county parking surcharges, totaling \$209,362, was underremitted to Stanislaus County (\$179,122 from CSU Stanislaus and \$30,240 from the City of Oakdale).

City of Ceres underremitted the following state surcharges from its parking collections:

• 50% of any penalties collected from equipment and tag violations from July 2006 to June 2014, totaling \$52,616.

The county underremitted the following state surcharges from its parking collections:

• 50% of any penalties collected from equipment and tag violations from July 2006 to June 2009, totaling \$66,009.

The county also overremitted the following state surcharges from its parking collections:

- \$3 to the State Court Facilities Construction Fund ICNA from July 2008 through June 2009, totaling \$4,095; and
- \$1.50 to the State Court Facilities Construction Fund from July 2008 through June 2009, totaling \$2,047.

CSU Stanislaus underremitted the following state surcharges from its parking collections:

• \$3 to the State Trial Court Trust Fund account for every parking fine or forfeiture from July 2010 through June 2014, totaling \$47,019;

• \$3 to the State Court Facilities Construction Fund – ICNA from July 2008 through June 2014, totaling \$73,887; and

• \$1.50 to the State Court Facilities Construction Fund from July 2008 through June 2014, totaling \$36,945.

CSU Stanislaus also underremitted the following county surcharges to Stanislaus County from its parking collections:

• \$2.50 each to 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 and underremittance of \$179,122 to Stanislaus County, consisting of a \$71,648 deposit to the County General Fund; a \$53,737 deposit to the County Criminal Justice Facilities Fund; and a \$53,737 deposit to the County Courthouse Construction Fund.

City of Hughson underremitted the following state surcharges from its parking collections:

• 50% of any penalties collected from equipment and tag violations from July 2006 to June 2014, totaling \$15,796.

City of Newman underremitted the following state surcharges from its parking collections:

• 50% of any penalties collected from equipment and tag violations from July 2006 to June 2014, totaling \$1,136.

City of Oakdale underremitted the following state surcharges from its parking collections:

- \$3 to the State Trial Court Trust Fund account for every parking fine or forfeiture from July 2010 through June 2014, totaling \$10,332;
- \$3 to the State Court Facilities Construction Fund ICNA from July 2008 through June 2014, totaling \$16,380;
- \$1.50 to the State Court Facilities Construction Fund from July 2008 through June 2014, totaling \$8,190; and
- 50% of any penalties collected from equipment and tag violations from July 2008 through June 2014, totaling \$38,256.

City of Oakdale also underremitted the following county surcharges to Stanislaus County from its parking collections:

• \$2.50 each to the County Criminal Justice Facilities Fund and the County Courthouse Construction Fund. \$1 of each distribution should be transferred to the County General Fund to be included as qualified revenues for the 50% excess of qualified fines, fees, and penalties calculation. The error resulted in an underremittance of \$30,240 to Stanislaus County, consisting of a \$12,096 deposit to the County General Fund; a \$9,072 deposit to the County Criminal Justice Facilities Fund; and a \$9,072 deposit to the County Courthouse Construction Fund.

City of Patterson underremitted the following state surcharges from its parking collections:

• 50% of any penalties collected from equipment and tag violations from July 2006 to June 2014, totaling \$45,214.

City of Riverbank underremitted the following state surcharges from its parking collections:

• 50% of any penalties collected from equipment and tag violations from July 2006 to June 2014, totaling \$22,080.

Stanislaus County Sheriff underremitted the following state surcharges from its parking collections:

• 50% of any penalties collected from equipment and tag violations from July 2006 to June 2014, totaling \$45,179.

City of Turlock underremitted the following state surcharges from its parking collections:

• 50% of any penalties collected from equipment and tag violations from July 2006 to June 2014, totaling \$95,170.

City of Waterford underremitted the following state surcharges from its parking collections:

• 50% of any penalties collected from equipment and tag violations from July 2006 to June 2014, totaling \$12,313.

The error occurred because the county, court, CSU Stanislaus, City of Ceres, City of Hughson, City of Newman, City of Oakdale, City of Patterson, City of Riverbank, Stanislaus County Sheriff, City of Turlock, and City of Waterford misinterpreted the required parking distributions.

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 in the County Courthouse Construction Fund and County Criminal Justice Facilities Construction Fund the \$2.50 parking penalty from each parking fine or forfeiture collected. This section also 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 50% to the issuing processing agency and 50% to the State Treasurer.

GC section 70372(b) requires the issuing agency 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 agency to distribute to the State Trial Court Trust Fund an additional state surcharge of \$3 for every parking fine or forfeiture beginning January 2011.

#### Recommendation

#### We recommend that:

• City of Ceres remit \$52,616 to Stanislaus County for an increase of \$52,616 to the State General Fund for subsequent remittance by the county to the State Treasurer;

- CSU Stanislaus remit \$157,851 to Stanislaus County for increases of \$47,019 to the State Trial Court Trust Fund, \$73,887 to the State Court Facilities Construction Fund – ICNA, and \$36,945 to the State Court Facilities Construction Fund for subsequent remittance by the county to the State Treasurer;
- CSU Stanislaus remit \$179,122 to Stanislaus County for a \$71,648 deposit to the County General Fund; a \$53,737 deposit to the County Criminal Justice Facilities Fund; and a \$53,737 deposit to the County Courthouse Construction Fund;
- City of Hughson remit \$15,796 to Stanislaus County for an increase of \$15,796 to the State General Fund for subsequent remittance by the county to the State Treasurer;
- City of Newman remit \$1,136 to Stanislaus County for an increase of \$1,136 to the State General Fund for subsequent remittance by the county to the State Treasurer;
- City of Oakdale remit \$73,158 to Stanislaus County for increases of \$10,332 to the State Trial Court Trust Fund, \$16,380 to the State Court Facilities Construction Fund – ICNA, \$8,190 to the State Court Facilities Construction Fund, and \$38,256 to the State General Fund for subsequent remittance by the county to the State Treasurer;
- City of Oakdale remit \$30,240 to Stanislaus County for a \$12,096 deposit to the County General Fund; a \$9,072 deposit to the County Criminal Justice Facilities Fund; and a \$9,072 deposit to the County Courthouse Construction Fund;
- City of Patterson remit \$45,214 to Stanislaus County for an increase of \$45,214 to the State General Fund for subsequent remittance by the county to the State Treasurer;
- City of Riverbank remit \$22,080 to Stanislaus County for an increase of \$22,080 to the State General Fund for subsequent remittance by the county to the State Treasurer;
- Stanislaus County Auditor-Controller remit \$59,867 to the State for an increase of \$66,009 to the State General Fund and decreases of \$4,095 to the State Court Facilities Construction Fund ICNA, and \$2,047 to the State Court Facilities Construction Fund;
- Stanislaus County Sheriff remit \$45,179 to Stanislaus County (Auditor-Controller) for an increase of \$45,179 to the State General Fund for subsequent remittance by the county to the State Treasurer;
- City of Turlock remit \$95,170 to Stanislaus County for an increase of \$95,170 to the State General Fund for subsequent remittance by the county to the State Treasurer;

• City of Waterford remit \$12,313 to Stanislaus County for an increase of \$12,313 to the State General Fund for subsequent remittance by the county to the State Treasurer; and

 Stanislaus County remit to the State Treasurer any portion of the \$520,513 it receives from the entities identified in the previous bulleted items.

#### County's Response

The county agrees with this finding.

#### Court's Response

The court agrees with this finding.

#### California State University, Stanislaus's Response

California State University, Stanislaus disagrees with this finding.

#### City of Hughson's Response

The City of Hughson agrees with this finding.

#### FINDING 3— Underremitted State Health and Safety bail bond forfeitures

During testing of bail bond forfeitures, we found that the county underremitted the State's share of controlled substance revenues from bail bond forfeitures to the State Treasurer for each fiscal year in the audit period. The error occurred because the Auditor-Controller's personnel made adjustments manually at month-end and overlooked the statutorily required distributions.

The revenues, after deducting the allowable 2% automation fee, should have been applied in accordance with Health and Safety Code section 11502, which requires that health and safety violation bail bond forfeitures be distributed 75% to the State General Fund and 25% to the county or city, depending on whether the arrest took place in the county or city.

GC section 68090.8 requires that 2% be deducted from all fines, penalties, and forfeitures for automation purposes.

The incorrect distribution had the following effect:

Account Title		erremitted/ erremitted)
Trecount The	(01)	cricinited)
State General Fund – Health and Safety Code §11502	\$	218,832
State Trial Court Improvement and Modernization Fund (2% Automation) – GC §68090.8		5,955
		224,787
City of Ceres General Fund		(7,550)
City of Turlock General Fund		(50,955)
City of Modesto General Fund		(105,826)
County General Fund		(60,456)
	\$	(224,787)

#### Recommendation

We recommend that the county:

 Establish and implement procedures to properly distribute controlled substance revenues from bail bond forfeitures; and

• Remit \$224,787 to the State Treasurer, and report an increase of \$218,832 to the State General Fund and \$5,955 to the State Trial Court Improvement and Modernization Fund on the TC-31.

#### County's Response

The county agreed with our finding, but adjusted some of the Health and Safety distributions between the county and cities due to revised arresting agencies for the affected cases.

#### **SCO Comment**

We reviewed the county's supporting documentation and concur with the county's adjustment.

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

#### AUDITOR-CONTROLLER



Lauren Klein, CPA
Auditor-Controller

1010 10<sup>TM</sup> Street, Suite 5100, Modesto, CA 95354 PO Box 770, Modesto, CA 95353-0770 Phone: 209.525.6398 Fox: 209.525.7507



October 9, 2018

Ms. Lisa Kurokawa, Chief Compliance Audits Bureau California State Controller's Office Division of Audits P.O. Box 942850 Sacramento, CA 94250

Ms. Kurokawa:

This letter is in response to the September 28, 2018, Stanislaus County Court Revenues Audit Report. The report covered July 1, 2006, to June 30, 2014, period.

The County agrees with the sum of \$314,553 of under remitted amounts as noted below:

- Finding 1 \$29,899 under remittance of the 50% excess of qualified fines, fees and penalties
- Finding 2 \$59,867 under remittance of parking surcharges
- Finding 3 \$224,787 under remittance of the State Health and Safety bail bond forfeitures

Additionally, the County received \$15,796 from the City of Hughson for the under remitted amount pertaining to the parking surcharges.

The County will be remitting a total of \$330,349 (\$314,553 plus \$15,796) to the State Treasurer. A separate TC-31 form will be completed to include the audit finding remittances.

The County did note discrepancies relating to the Health & Safety Code distributions on page 12 of the report.

	<u>Per Audit Report</u>	Revised per County
City of Ceres	(\$7,550)	(\$7,550)
City of Turlock	(\$43,211)	(\$50,955)
City of Waterford	(\$7,550)	\$0
City of Modesto	\$0	(\$105,826)
County	(\$166,476)	(\$60,456)
Total	(\$224,787)	(\$224,787)

Sincerely,

Kashmir Gill, CPA

Assistant Auditor-Controller

Cc: Reginald F. Nidoy, State Controller's Office

# Attachment B— Superior Court's Response to Draft Audit Report



# SUPERIOR COURT OF CALIFORNIA COUNTY OF STANISLAUS

Hugh K. Swift Court Executive Officer Jury Commissioner 800 - 11th Street Modesto, California 95354 Telephone (209) 530-3111 Fax (209) 236-7797 www.stanct.org

October 3, 2018

Reginald F. Nidoy Office of State Controller Betty T. Yee Division of Audits, Community-Related Audits Bureau 3301 C Street, Suite 725 Sacramento, CA 95816

Re: S15CRV0003 #2DRAFT OSB - Stanislaus

Dear Mr. Nidoy,

The Court is in receipt of the draft audit report referenced above for Stanislaus County for the period July 1, 2006 through June 30, 2014. We agree with the finding the Court incorrectly distributed VC 40225(d) as surcharges during this audit period, resulting in \$59,867 under remitted to the State.

Respectfully,

Hugh K. Swift

Court Executive Officer

Superior Court of California, County of Stanislaus

# Attachment C— California State University, Stanislaus's Response to Draft Audit Report



Office of General Counsel 401 Golden Shore, 4th Floor Long Beach, CA 90802-4210 www.calstate.edu

Thy Monaco University Counsel Phone (562) 951-4500 Fax (562) 951-4956 tmonaco@calstate.edu

October 11, 2018

#### By U.S. Mail & E-Mail: lkurokawa@sco.ca.gov

Lisa Kurokawa Chief, Compliance Audits Bureau California State Controller's Office P.O. Box 942850 Sacramento, CA 94250-5874

> California State University, Stanislaus Response to California State Controller's Draft Audit Report dated September 2018 of Stanislaus County Court Revenues (July 1, 2006-June 30, 2014)

Dear Ms. Kurokawa,

Re:

I write in response to correspondence dated September 28, 2018 from Jeffrey V. Brownfield, CPA, Chief, Division of Audits, California State Controller, to Darrel Haydon, Vice President of Business and Finance and C.F.O., California State University, Stanislaus ("CSU").

The CSU is not the subject of the above-referenced audit. Nevertheless, it appears that the State Controller's Office (SCO) believes it has the authority to require CSU to pay to Stanislaus County revenues which the SCO believes were under remitted for the period July 1, 2006 through June 30, 2014. It appears that the SCO believes there is no time limitation on its ability to require payment to Stanislaus County, notwithstanding that the purported under remittances occurred more than four years ago. Indeed, some of the claimed under remittances occurred approximately 10 years ago in fiscal year 2008-2009.

Assuming that the SCO may directly require CSU to pay the purported under remittances to Stanislaus County, CSU respectfully submits that various principles of law preclude it from doing so retroactively, years later

As the Draft Report itself recognizes, the court is required to deposit the State's portion of court revenues with the county treasurer as soon as practicably possible and provide the county auditor with a record of collections on a monthly basis. The county auditor, in turn, is required to transmit those funds to the State Treasurer together with a record of the money collected. The county auditor is required to make payments and provide records at least once a month. Once

CSU CAMPUSES Bakersfield Channel Islands Chico Dominguez Hills

Fullerton Humboldt Long Beach Los Angeles 2018.10.11 - Letter to Lisa Kurokawa - State Controller's Office

Monterey Bay Northridge Pomona Sacramento San Bernardino San Diego

San Francisco San José San Luis Obispo San Marcos Sonoma Stanislaus

Lisa Kurokawa October 11, 2018 Page 2

received by the State Treasurer, the SCO is required to review the reports and records to ensure that all fines and forfeitures have been transmitted.

Given these statutory requirements and absent any explanation regarding the SCO's delay in bringing this matter to CSU's attention, it is clear that CSU cannot be required to pay any purported under remittance which occurred more than 3 years prior to September 28, 2018 (i.e., September 28, 2015). Cal. Code of Civil Procedure Section 338 (a) expressly provides that any recovery of monies based upon a "liability created by statute" must be commenced within 3 years.

Moreover, the legal doctrines of laches and estoppel would appear to be fully applicable. This is particularly true with respect to under remittances that purportedly occurred 6, 7, 8, 9 and 10 years ago.

The CSU welcomes the opportunity to meet with your or 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,

Thy Monaco

University Counsel

# Attachment D— City of Hughson's Response to Draft Audit Report



October 9, 2018

California State Controller's Office Division of Audits Attn: Lisa Kurokawa Post Office Box 942850 Sacramento, CA 94250

Re: Stanislaus County Court Revenues Audit Report

Ms. Kurokawa,

The City of Hughson is in receipt of the draft audit report referenced above for Stanislaus County for the period July 1, 2006 through June 30, 2014. Based on the City of Hughson's assessment of our records and the audit documentation which was provided to us, the City of Hughson agrees with Finding 2 — Underremitted parking surcharges in the amount of \$15,796.

On May 31, 2018 a check was issued in the amount of \$15,796 to the Stanislaus County Auditor Controller's Office to correct for the underpayment identified in the above referenced audit report. In addition, procedures are now in place to ensure timely payment is made to the Stanislaus County Auditor Controller's Office for state surcharges from parking collections.

Respectfully,

Shannon Esenwein

Director of Finance and Administrative Services

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

http://www.sco.ca.gov