

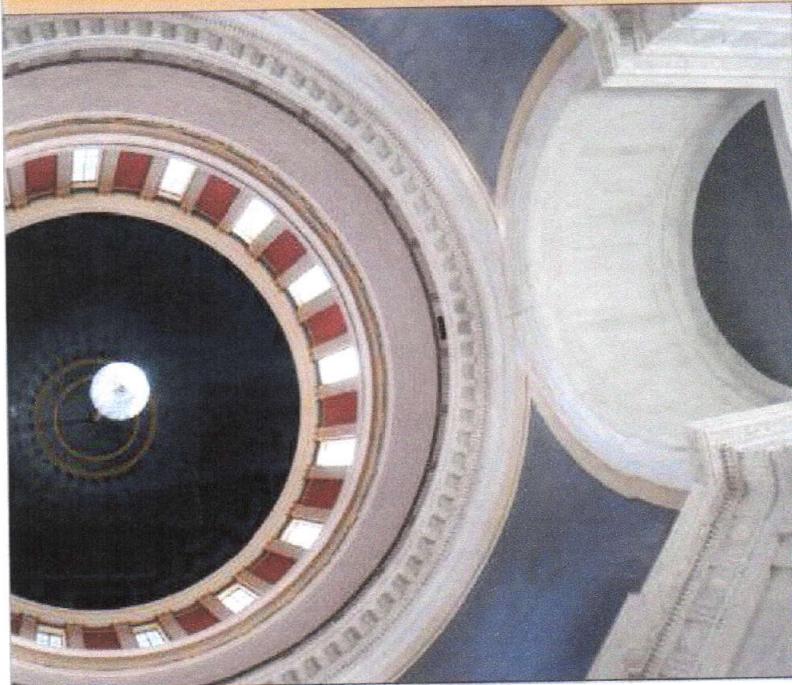
LEGISLATIVE POST AUDIT REPORT

WEST VIRGINIA ATTORNEY GENERAL'S OFFICE CONSUMER PROTECTION RECOVERY FUND

For the Period July 1, 2011 - June 30, 2012

AUDIT SUMMARY

- Lack of Internal Controls
- Commingling of Funds
- Cannot Determine Compliance with Court Case Agreements
- Non-Compliance with WV Purchasing Division Rule
- Expenditure Misclassification



WEST VIRGINIA LEGISLATIVE AUDITOR
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WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

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The Joint Committee on Government and Finance:

In compliance with the provisions of the WV Code, §4-2, as amended, we conducted a limited scope post audit of the West Virginia Attorney General's Office (WVAGO) for the period July 1, 2011 through June 30, 2012.

Our limited scope audit was conducted at the request of the WVAGO. We limited our review to expenditures of the Consumer Protection Recovery Fund (Fund 1509) for the period of July 1, 2011 to June 30, 2012.

We have conducted our audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Our audit disclosed certain findings, which are detailed in this report. Findings deemed inconsequential to the financial operations of the agency were discussed with management. WVAGO management has responded to the audit findings; we have included the responses at the end of the report.

Respectfully submitted,

A handwritten signature in blue ink that reads "Stacy L. Sneed".

Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division

SLS/jap

**WEST VIRGINIA ATTORNEY GENERAL'S OFFICE
CONSUMER PROTECTION RECOVERY FUND
JULY 1, 2011 – JUNE 30, 2012**

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**WEST VIRGINIA ATTORNEY GENERAL'S OFFICE
CONSUMER PROTECTION RECOVERY FUND
JULY 1, 2011 – JUNE 30, 2012**

INTRODUCTION

POST AUDIT AUTHORITY

This is the report on the post audit of the West Virginia Attorney General's Office (WVAGO) Consumer Protection Recovery Fund (Fund 1509) for the period of July 1, 2011 through June 30, 2012. The audit was conducted pursuant to §4-2, as amended, of the WV Code, which requires the Legislative Auditor to "make post audits of the revenues and funds of the spending units of the state government, at least once every two years, if practicable, to report any misapplication of state funds or erroneous, extravagant or unlawful expenditures by any spending unit, to ascertain facts and to make recommendations to the Legislature concerning post audit findings, the revenues and expenditures of the State and of the organization and functions of the State and its spending units."

BACKGROUND⁴

The WV Attorney General speaks for the legal interests of the state; gives his written opinions and advice upon questions of law to state officials, heads of state institutions, and prosecuting attorneys; handles legal matters and all litigation on behalf of the state government and any department or agency thereof; represents the state in all claims processed by the Court of Claims; prosecutes civil actions as authorized by law; enforces the states consumer, antitrust and preneed burial statutes; enforces the WV Human Rights Act and the WV Fair Housing Act; is a member of the Board of Public Works, Council of Finance and Administration, Public Land Corporation, WV Housing Fund, WV Sherriff's Bureau, Department of Public Safety and Retirement Board, Bid Suspension Review Board, State Building Commission, Multistate Compact Advisory Committee, Records Management and Preservation Advisory Committee.

The Consumer Protection Division of the Attorney General's Office works to protect West Virginia consumers and citizens against related fraud on many levels as well as focusing on fair and safe business practices for individuals and companies doing business in the state of West Virginia.

⁴ Background obtained from the 2011 WV Blue Book, WVAGO website, and information provided by the WVAGO.

**WEST VIRGINIA ATTORNEY GENERAL'S OFFICE
CONSUMER PROTECTION RECOVERY FUND
JULY 1, 2011 – JUNE 30, 2012**

SPENDING UNIT CONTACTS

Patrick Morrissey(January 14, 2013-present) Attorney General
Darrell McGraw(January 1993- January 14, 2013) Attorney General
Jerome Clay(September 23, 2002-present) Comptroller
Dan Greear (January 14, 2013-present) Chief Counsel
Fran Hughes (October 17, 1983 -January 11, 2013) Chief Deputy Attorney General

**WEST VIRGINIA ATTORNEY GENERAL'S OFFICE
CONSUMER PROTECTION RECOVERY FUND
JULY 1, 2011 – JUNE 30, 2012**

AUDIT SCOPE

We have audited the WVAGO for the period of July 1, 2011 – June 30, 2012. Our audit scope was limited to expenditures from Fund 1509 and included a review of internal controls concerning the receipt and expensing of such monies and compliance with applicable court orders, WV Code, Purchasing Division's Policies and Procedures, Expenditure Schedule Instructions, applicable State Rules, and WVAGO internal policies applicable to fiscal year 2012. We conducted this limited scope audit, which is a performance audit, in accordance with the standards applicable to performance audits contained in GAGAS. The Comptroller of the WVAGO requested this audit after the previous Attorney General lost the most recent election. During this audit, the current Attorney General has requested we expand the scope for an additional report on the remaining funds of the WVAGO which will be presented at a later date.

OBJECTIVES AND METHODOLOGIES

The objective of our post audit was to determine if monies received for the WVAGO Fund 1509 were expensed appropriately in accordance with court orders received, any applicable WV Code, any applicable Code of State Rules, and any internal policies and procedures.

To achieve our objectives, we studied legislation, applicable court orders, WV Code sections, applicable rules and regulations, and policies of WVAGO. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observations of WVAGO operations, and through inspections of documents and records. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Additionally, we reviewed the budget, studied financial trends, and interviewed WVAGO personnel to obtain an understanding of the programs and the internal controls respective to the scope of our audit. In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk.

To select transactions for testing, variations of non-statistical and statistical sampling were used. Sample size was determined either using RAT-STATS statistical software or by professional auditor judgment. Our samples of transactions were designed to provide conclusions about the validity of transactions, as well as internal control and compliance attributes. Transactions chosen for testing were selected using professional auditor judgment.

We conducted this post audit, which is a performance audit, in accordance with the standards applicable to performance audits contained in GAGAS. 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. An audit includes examining, on a test basis, evidence about WVAGO's compliance with those requirements referred to above and

performing such other procedures, as we considered necessary in the circumstances. Our audit does not provide a legal determination of WVAGO's compliance with those requirements.

WVAGO management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. In addition, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Post Audits Subcommittee in exercising its legislative oversight function and to provide constructive recommendations for improving State operations.

CONCLUSIONS

The WVAGO expenditure process had significant internal control weaknesses and noncompliance in areas of high risk.

For the items tested, WVAGO did not comply with parts of the following: WV Code, WV State Auditor's Office Payment Processing Guide, WV Expenditure Schedule Instructions, and WV Legislative Rules. Noncompliance with the aforementioned was related to inadequate recordkeeping, lack of internal controls, lack of management oversight, and commingling of funds.

Most of the issues identified in this report result from inadequate recordkeeping, poor or nonexistent internal controls, a lack of segregation of duties, and a lack of management oversight on the part of the WVAGO. Overall, WVAGO did not maintain adequate systems or have sufficient, reliable evidence to support certain significant information.

EXIT CONFERENCE

We discussed this report with management of WVAGO on June 5, 2013. All findings and recommendations were reviewed and discussed. Any items deemed inconsequential were also discussed with management during the formal exit conference. Management's response has been included at the end of the report in Appendix A.

WEST VIRGINIA ATTORNEY GENERAL'S OFFICE
CONSUMER PROTECTION RECOVERY FUND
JULY 1, 2011 – JUNE 30, 2012

FUND LISTING⁵

Our post audit included reviewing expenditures from the following special revenue account. This account represents funds from specific activities as required by law or administrative regulations:

1509 Consumer Protection Recovery Fund

This fund comprises civil action recoveries to make civil penalty awards to consumers, holds monies received from consumer legal settlement, and funds consumer protection related activities (governed by WV Code §46A-7-111).

⁵ Fund description obtained from the Budget Division's Digest of Revenue Sources for fiscal year 2012 and information provided by the WVAGO.

**WEST VIRGINIA ATTORNEY GENERAL'S OFFICE
CONSUMER PROTECTION RECOVERY FUND
JULY 1, 2011 – JUNE 30, 2012**

FINDINGS AND RECOMMENDATIONS

Objective The objective of our post audit was to determine if monies received for the WVAGO Fund 1509 were expensed appropriately in accordance with court orders received, any applicable WV Code, any applicable Code of State Rules, and any internal policies and procedures.

Results **We could not determine if all monies from Fund 1509 were expensed appropriately in accordance with the court orders. All funds were deposited into Fund 1509 without any segregation; therefore, we were unable to determine if monies that should be held in trust or spent on specific projects, as dictated by the court orders, were indeed used for such. (See Finding 2). Further, we found the WVAGO expenditure process had significant internal control weaknesses and noncompliance with WV Code, the WV Purchasing Division Procedures Handbook, and the WV Expenditure Schedule Instructions in areas of high risk as evidenced by the following findings.**

Finding 1 Lack of Internal Controls

Condition: We determined there was a lack of internal controls over the expenditures made by the WVAGO for Fund 1509 during fiscal year 2012. The lack of internal controls is described in detail as follows:

Lack of Segregation of Duties

- The CFO/Comptroller and his wife, the Accounts Payable Clerk, entered most, if not all, of the expenditures in WVFIMS and all expenditures were approved by the CFO/Comptroller in WVFIMS;

Lack of Management Oversight

- There was a lack of management oversight over the CFO/Comptroller and his wife, the Accounts Payable Clerk, entering expenditures into WVFIMS and over the CFO/Comptroller approving all expenditures in WVFIMS; and
- No reconciliations were performed of the expenditures made.

Criteria: WV Code §5A-8-9 states in part:

“The head of each agency shall: . . .

(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal

and financial rights of the state and of persons directly affected by the agency's activities."

Management is responsible for establishing and maintaining effective internal controls. A fundamental concept of internal control is adequate segregation of incompatible duties. For adequate segregation of duties, management should ensure responsibilities for authorizing transactions, recording transactions, and maintaining custody of assets are assigned to different employees.

Cause: The lack of segregation of duties was caused by staffing limitations, lack of management oversight, and the CFO/Comptroller working so closely with his wife.

Effect: Due to inadequate internal controls over expenditures, we cannot be assured that all expenditures were properly made and recorded. Additionally, there is an increased risk unauthorized purchases could be made and not detected. Inadequate segregation of duties and an overall lack of adequate internal control increases the risk of fraud, theft, loss, misappropriation, etc. which could go unnoticed.

Recommendation: We recommend the WVAGO comply with WV Code §5A-8-9. While adequate segregation of duties may be difficult to achieve due to a limited staff, the WVAGO can implement additional safeguards to minimize the risk of fraud. We also recommend that WVAGO management provide effective oversight over the expenditure process.

Spending Unit's Response: *See Appendix A.*

Spending Unit's Corrective Action Plan: *See Appendix A.*

Finding 2 Fund 1509 Commingling of Funds

Condition: During our audit of Fund 1509 for the WVAGO, we determined monies brought in as revenue from various court case agreements were commingled in this single fund. We could not determine, for individual expenditures, from what court cases the monies originated. During fiscal year 2012 Fund 1509 had \$18,973,917.81 in deposits, \$754,195.70 in revenue refunds¹ (which are court case monies being paid to consumers), and \$2,594,717.02 in expenditures.

Criteria: The Settlement Agreement and Release for the civil action *State of West Virginia, ex rel. Darrell V. McGraw, Jr. Attorney General v. Johnson & Johnson and Janssen Pharmaceutica Products* states in part:

“WHEREAS, \$450,000 of the proceeds of this settlement will be allocated to the Consumer Protection Fund of the Office of the West Virginia Attorney General, which amount will be placed in trust...”

The Settlement Agreement for the civil action *State of West Virginia ex rel. Darrell V. McGraw, Jr. Attorney General v. Capital One Bank (USA) N.A., et al* states in part:

“...pay into an account specified by the State, pursuant to separate wire instructions, \$1 million to the Attorney General Consumer Protection Fund, which shall be placed in trust...”

The Final Order for the civil action *State of West Virginia ex rel. Darrell V. McGraw, Jr. Attorney General, West Virginia Bureau of Employment Programs, West Virginia Department of Health and Human Services, and West Virginia Public Employees Insurance Agency v. Purdue Pharma, L.P.; Purdue Pharma, Inc.; Purdue Frederick Company; Abbott Laboratories; Abbott Laboratories, Inc* states in part:

“...Purdue shall pay the sum of \$10 Million dollars to the Consumer Protection Fund of the Office of the West Virginia Attorney General, payable in four (4) equal annual installments of \$2,500,000.00 beginning on December 15, 2004, and three (3) successive payments of \$2,500,000.00 each, to be paid on December 15th of the years 2005, 2006, and 2007, which funds shall be placed in trust...”

WV Code §5A-8-9 states in part:

“The head of each agency shall: . . .

(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities.”

Cause: The WVAGO does not properly track monies received from court case agreements and does not commit these monies to be used for expenditures relating to the specific court case.

Effect: It cannot be determined if expenditures regarding a specific court case agreement were made with the monies brought in from that agreement.

Recommendation: We recommend the WVAGO stop commingling monies and keep all monies to be held in trust segregated.

Spending Unit's
Response: *See Appendix A.*

Spending Unit's
Corrective Action
Plan: *See Appendix A.*

Finding 3 Cannot Determine Compliance with Court Case Agreements

Condition: During our audit of Fund 1509 for the WVAGO, we could not determine compliance with the appropriate court case agreements for 77 transactions totaling \$797,455.44 due to a lack of proper documentation and lack of detail in WVFIMS.

Criteria: WV Code §5A-8-9 states in part:

“The head of each agency shall: . . .

(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities.”

Cause: Lack of management oversight to ensure proper documentation is prepared and maintained for all expenditures relating to court case agreements and sufficient detail is recorded in WVFIMS.

Effect: Without proper documentation and sufficient detail in WVFIMS to ensure expenditures are in accordance with court case agreements, amounts spent might not comply with the agreements and monies could be spent for purposes not intended by the corresponding agreements.

Recommendation: We recommend the WVAGO comply with WV Code §5A-8-9 and maintain proper documentation and provide sufficient detail in WVFIMS to ensure monies spent are in compliance with appropriate court case agreements.

**Spending Unit’s
Response:** *See Appendix A.*

**Spending Unit’s
Corrective Action
Plan:** *See Appendix A.*

Finding 4 Non-Compliance with WV Purchasing Division Rule

Condition: During our audit of cash disbursements and advertising expenditures, we noted 15 transactions totaling \$161,489.04 out of a sample of 62 transactions totaling \$838,161.30² (19.27%) did not comply with WV Purchasing Division Rule. These transactions are described in detail as follows:

- The necessary purchase order and bid documentation was not obtained for seven transactions totaling \$19,054.00;
- Proper approval and documentation was not obtained from the Purchasing Division for piggybacking a contract for one transaction totaling \$101,906.04. It also appeared the amounts on the invoice paid did not match the amounts listed in the contract to be piggybacked;
- Seven transactions totaling \$34,459.00 were from seven different vendors who were not registered in the state's TEAM purchasing system; and
- One transaction totaling \$1,300 was from a vendor who had a hold in the state's TEAM purchasing system.

Criteria: Legislative Rule §148-1, effective July 1, 2009, states in part:

“The Director shall:

4.1. Ensure that purchases and contracts for commodities, services or printing are based on competitive bid whenever possible.”

“6.1.1. Except for purchasing card vendors providing travel related services or receiving an aggregate total yearly payment less than \$25,000.00 from a spending unit, all vendors shall register with the Purchasing Division.”

“6.1.7. The vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia...”

“7.2. Purchases of \$25,000 or less.

Spending units may make purchases of \$25,000 or less per transaction for certain commodities, services or printing pursuant to the most current Purchasing Division procedures and requirements established by the Director.”

“7.9.1 The Director may approve a request by a spending unit to make a purchase from contracts issued by agencies of the federal government, agencies of other states, other public bodies or other state agencies...”

7.9.2 All requests to use such contracts shall be submitted in advance to the Director with necessary evidence and documentation....”

“10.1. Any person who authorizes or approves a purchase or contract in violation of West Virginia Code, this rule, or any policy or procedure adopted by

the Purchasing Division is personally liable for the cost of the purchase or contract..."

The WV Purchasing Division Procedures Handbook⁶ states in part:

"3.2... For purchases \$2,500.01 to \$5,000, three (3) verbal bids are required, where possible, and the lowest bid meeting specifications must be awarded the purchase order/contract..."

...Purchases \$5,000.01 to \$25,000 require three (3) written bids, where possible, and the lowest bid meeting specifications must be awarded the purchase order/contract..."

"6.1.2... An Agency Purchase Order, WV-88, or TEAM-generated Purchase Order is required for purchases exceeding \$2,500."

"4.6.2.2... Piggybacking on agency open-end contracts may be permitted upon written approval of the Purchasing Director."

"8.8... State agencies must complete a Cooperative Purchasing Request, Justification and Approval form (WV-40) to request that the Purchasing Director consider granting the state agency permission to purchase from one of the above contract categories..."

... Should a state agency receive approval through the WV-40 process from the Purchasing Division to piggyback an existing contract, the agency must complete a Purchasing Requisition (WV-35), attaching the WV-40 form, indicating a release to the approved contract..."

"5.1...Vendors doing business with the state of West Virginia must be registered by having a Vendor Registration and Disclosure Statement (WV-1 or WV-1A form) on file with the Purchasing Division in accordance with West Virginia Code §5A-3-12..."

"5.3... In order for agencies to know which vendors are eligible to receive purchase orders, the "Vendor Hold Feature" of TEAM is used. The "H" in the Order Hold field on the TEAM VOS screen indicates ineligibility. Vendors placed on hold cannot receive purchase orders in excess of \$1,000."

Cause: There is a lack of internal control over purchasing procedures compliance and a lack of management oversight to ensure all purchasing procedures are followed.

Effect: By failing to properly bid out, the WVAGO runs the risk of over paying for services or item(s) and thus increasing the cost to the state by not taking the lowest bid. In addition, by not having purchase orders WVAGO runs the risk of

⁶ The WV Purchasing Division's Procedures Handbook is neither Code nor Rule, as such revisions are not approved by the Legislature.

paying the incorrect amount. Without receiving proper approval and retaining the appropriate documentation for piggybacking a contract the WVAGO may be making purchases that should have been bid out and could be taking business away from other potential vendors. By using vendors who have not registered with the state and a vendor who has a hold in TEAM, the WVAGO runs the risk of providing revenue to an organization or company which may not be compliant with state labor laws.

Recommendation: We recommend the WVAGO comply with Legislative Rule §148-1, effective July 1, 2009, and the WV Purchasing Division Procedures Handbook and properly bid out and obtain purchase orders for purchases over \$2,500.00, obtain the proper approval documentation for piggybacking an existing contract with another state agency, and ensure all vendors they do business with are properly registered in the TEAM purchase system and do not have any holds.

Spending Unit's
Response: *See Appendix A.*

Spending Unit's
Corrective Action
Plan: *See Appendix A.*

Finding 5 Expenditure Misclassification

Condition: During our audit of cash disbursement expenditures, we noted six transactions totaling \$130,160.50 out of a sample of 30 transactions totaling \$636,311.28³ (20.5%) did not comply with the WV Expenditure Schedule Instructions. There was also a lack of consistency in using certain object codes. These transactions are described in detail as follows:

Doc ID	Description	Amount	Misclassified Obj Code	Suggested Obj Code
I013182283	Cleaning supplies and deposit for water service for new office	\$ 184.18 140.00	020 020	034 023
I013188900	High speed internet	311.32	027	024
I013151490	Banner stands	2,000.00	051	035
I012486196	Gift card for winner of credit quiz at consumer event	25.00	051	035
I012477753	Award of settlement monies to AARP	7,500.00	081	083
I012336032	Award of settlement monies to Boys Club of Parkersburg	40,000.00	081	083

Criteria: The WV Expenditure Schedule Instructions states in part:

“020 - Office Expenses: Those supplies normally used in the operation of an office and are primarily considered expendable in nature...”

“023 - Utilities: Sanitation fees, trash/garbage disposal, fire service, police protection fees, septic tank maintenance, and cable television charges...”

“024 - Telecommunications: Monthly charges for the following services: office telephones, teleconferencing, long distance charges, data circuits for computers, installations and moving charges, Internet charges...”

“027 - Computer Services: Charges for computer services by IS&C, WVNET, State Auditor’s Office, legislative computer system, or any other authorized entity for contractual or professional support services for computers and software, programming, machine time, transaction fees, and/or other related computer services...”

“034 - Clothing, Household and Recreational Supplies: ...Household supplies include items purchased for cleaning, laundering, detergents, disinfectants, light bulbs, garbage cans, trash bags, etc.”

“035 - Advertising and Promotional: Newspaper ads for legal public notice requirements, procurement bids, radio and television spots, special sponsorships, publicity advertising to include pamphlets, road maps, event/booth fees, and bill boards...”

"051 - Miscellaneous: Allowable employee recognition awards, except those paid from personal services and benefits, and those supplies or services which cannot be classified under any other object code."

"081 - Payment of Claims and/or Settlement Agreements: Payments of claims and settlement agreements, and other directly related expenditures awarded by the Insurance Commissioner, WorkForce West Virginia, PEIA, CHIP, BRIM, and other state agencies which pay claims and/or settlement agreements..."

"083 - Grants, Awards, Scholarships, and Loans: Disbursement of funds for the payment of grants such as fairs and festivals for the Department of Agriculture and the Division of Culture and History; the payment of agricultural awards, awards for contests, educational scholarships, entitlement grants, financial aid for students, Upward Bound stipends, economic loans or other appropriate authorized expenditure..."

Cause: There is a lack of internal control and management oversight when entering expenditures into WVFIMS.

Effect: Misclassification of transactions results in inaccurate financial reporting as well as WVAGO's noncompliance with the Expenditure Schedule Instructions.

Recommendation: We recommend the WVAGO strengthen internal controls over classification of expenditures to ensure transactions comply with the WV State Expenditure Schedule Instructions.

Spending Unit's Response: *See Appendix A.*

Spending Unit's Corrective Action Plan: *See Appendix A.*

**WEST VIRGINIA ATTORNEY GENERAL'S OFFICE
CONSUMER PROTECTION RECOVERY FUND
JULY 1, 2011 – JUNE 30, 2012**

APPENDIX A

WEST VIRGINIA ATTORNEY GENERAL'S OFFICES RESPONSE TO AUDIT FINDINGS



PATRICK MORRISEY
ATTORNEY GENERAL

June 7, 2013

Joshua A. Potter
Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Blvd., East
Charleston, WV 25305-0610

RE: WVAGO's responses to the audit findings related to the limited scope post audit
of the Consumer Protection Recovery Fund.

Dear Mr. Potter:

Enclosed please find the West Virginia Attorney General's Office responses to the audit findings from the limited scope post audit of the Consumer Protection Recovery Fund for the period of July 1, 2011 to June 30, 2012. The Attorney General's Office has taken steps to eliminate the causes of the findings and will continue to develop best practices that improve the integrity of monies we manage. We appreciate the service performed by the West Virginia Legislative Auditor's Office.

Sincerely,

A handwritten signature in black ink that reads "Patrick Morrissey".

Patrick Morrissey
Attorney General

Enclosure

STATE CAPITOL BUILDING 1, ROOM E-26, 1900 KANAWHA BOULEVARD EAST, CHARLESTON, WV 25305 (304) 558-2021



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0410

Draft Audit Response

Finding 1: Lack of Internal Controls

Response: Concur

Corrective Action:

New management practices, instituted this year, require a list of payments to be prepared and reviewed by senior executive management. The list includes fund and activity number, I document number, dollar amount, and vendor name (See attached example). In addition, we have hired a CFO who will validate completed transactions and reconcile dollar amounts paid to the WV FIMS system. We will need continued funding for the financial positions we added in our most recent supplemental appropriation bill, to ensure continued compliance with best practices and to strengthen Internal Controls. The new CFO is also in the process of documenting the Office's current accounting practices to determine new ways to strengthen controls. In strengthening controls, personnel have been reassigned to prevent relationship conflicts from occurring in the future, such as the husband and wife relationship documented in the audit findings.

Finding 2: Fund 1509 Commingling of Funds

Response: Concur, with comment

Corrective Action:

We concur that monies held in trust should not have been commingled. We have already installed controls to manage the account in a fundamentally different method than the past. Specifically, we seek three accounts for the purpose of holding money. One account to hold consumer monies in trust; another would hold money that would be turned over to the West Virginia legislature. The third account would be our Consumer Protection operating account, which would contain no more than \$12.4 million, an amount agreed to by the Governor and the Legislature to support three years of consumer operating expenses.

State Capitol Building I, Room E-26, 1900 Kanawha Boulevard East, Charleston, WV 25305



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

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The fund is a special revenue fund. The activities provided by the funds received are used to fund the unit. If all of the proceeds that are kept to pay for the activities of the unit are tied to specific court cases, the legislature would have to fundamentally alter the financing stream for this account. Significantly, we have already agreed with the legislature to only maintain \$12.4 million for three years' worth of operating expenses. As such, monies received to run the unit should be available to cover all the unit costs not just the costs tied to a specific court case.

Finding 3: Cannot Determine Compliance with Court Case

Response: Concur

Corrective Action:

In the past, there were no effective controls in place to ensure compliance with court orders. We believe that our proposed plan to segregate all monies held in trust into two additional accounts, one for operating monies needed to fund Consumer Protection and one for monies to be returned to the Legislature, will address this problem. We are also hiring an individual who will manage bookkeeping for these accounts – a position that did not exist in the past.

Finding 4: Non-compliance with WV Purchasing Division Procedures Handbook

Response: Concur

Corrective Action:

Since January, the office has sought to monitor bidding rules for items over \$2,500.00 and required management signoff on purchases of \$2,500.00 and above. An approval form will list the team vendor number, current status of that vendor in team, the additional bids obtained, and all supporting documents kept on file (Attached copy of Approval Form).

State Capitol Building 1, Room E-26, 1900 Kanawha Boulevard East, Charleston, WV 25305



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0410

In regards to the Piggyback contract, the staff of the previous Attorney General believes the agency complied with the verbal instructions from purchasing to be able to use that contract, and feels there was a misunderstanding between Purchasing and the previous Attorney General's office.

Finding 5: Expenditure Misclassification

Response: Concur

Corrective action:

We are now updating standard account codes for all reoccurring invoices. Once the expenditures are coded, the expenditure and all supporting documentation will be provided to the CFO for review and approval.

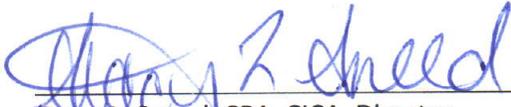
State Capitol Building 1, Room E-26, 1900 Kanawha Boulevard East, Charleston, WV 25305

STATE OF WEST VIRGINIA

OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:

I, Stacy L. Sneed, CPA, CICA, Director of the Legislative Post Audit Division, do hereby certify that the report appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 13th day of June 2013.



Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division

Notification of when the report was released and the location of the report on our website was sent to the Secretary of the Department of Administration to be filed as a public record. Report release notifications were also sent to the West Virginia Attorney General's Office; Governor; and State Auditor.