



SUFFOLK COUNTY
OFFICE OF THE COMPTROLLER
AUDIT DIVISION

Joseph Sawicki, Jr.
Comptroller

An Audit of

**SUFFOLK COUNTY
DEPARTMENT OF CONSUMER AFFAIRS**

For the Period January 1, 2009 through December 31, 2010

Report No: 2014-07
Date Issued: June 30, 2014

**SUFFOLK COUNTY
OFFICE OF THE COMPTROLLER**

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Comptroller

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LETTER OF TRANSMITTAL

June 30, 2014

Hon. Joseph Sawicki, Jr.
Suffolk County Comptroller
Suffolk County Department of Audit and Control
H. Lee Dennison Executive Office Building
P.O. Box 6100
100 Veterans Memorial Highway
Hauppauge, NY 11788-0099

Dear Mr. Sawicki:

In accordance with the authority vested in the County Comptroller by the Suffolk County Charter (Article V), a performance audit was conducted of the Suffolk County Department of Consumer Affairs (the "Department") located at the North County Complex, Building 340, Hauppauge, New York 11788.

The audit objectives were as follows:

- To document, test and evaluate the Department's internal controls relating to the processing and recording of receipts and disbursements for the Department's Restitution Fund and all other revenues and disbursements.
- To determine if the Restitution Fund's Statement of Receipts, Disbursements and Changes in Fund Balance is free of material misstatement and reconciles with the Fund Balance indicated by the Office of the Suffolk County Treasurer.
- To determine whether the Department has complied with all applicable laws and regulations relating to the operation of the Restitution Fund and for all other revenues generated by the Department.

An audit includes examining, on a test basis, evidence supporting the transactions recorded in accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. Our audit consisted primarily of reviewing policies and procedures, interviewing personnel and examining records to evaluate internal controls and to provide a reasonable assurance that adequate safeguards are in place to protect assets.

We believe our audit provides a reasonable basis for the findings and recommendations contained herein.

We note that our audit of the Department of Consumer Affairs took place prior to the consolidation of the Department of Consumer Affairs and the Department of Labor into a newly created Department of Labor, Licensing and Consumer Affairs, pursuant to Legislative Resolution No. 962-2012 dated November 20, 2012. Many of the audit findings contained herein have been resolved by the newly created Department as a result of this consolidation.

Respectfully,

A handwritten signature in black ink that reads "Frank Bayer". The signature is written in a cursive style with a large, prominent "F" and "B".

Frank A. Bayer, CPA
Executive Director of
Auditing Services

SUMMARY OF AUDIT FINDINGS

INTERNAL CONTROL

- The physical safeguards that exist over assets susceptible to misappropriation, specifically cash, (prior audit finding, Report No. 2002-19) (p. 8) were inadequate.
- The Department does not have an Accounting Policies and Procedures Manual (prior audit finding, Report No. 2002-19) (p. 8).
- The Department does not maintain a separate listing of mail receipts (prior audit finding, Report No. 2002-19) (p. 9.).
- Revenues collected for contractor payments made by credit card were recorded twice on the County's Integrated Financial Management System (IFMS) and disbursed twice by the Department to the County Treasurer's Office (p. 9).
- Deposits of \$4,450 reported in the County's IFMS for the 2009 period were not recorded in the Department's internal records of the Restitution Fund (p. 10).
- Departmental records do not contain sufficient documentation evidencing that a settlement offer was approved by a former Commissioner and communicated in writing to a contractor (p. 11).
- Testing of 30 disbursements documented in the Department's Restitution Fund case files revealed two instances in which the consumer application forms are missing the signature of the Departmental Inspector to whom the case was assigned (p. 11).
- The Department reported disbursements from the Restitution Fund bank account for the 2009 period that are \$2,300 greater than the disbursements reported by the County Treasurer's Office resulting from the Department's failure to document and reconcile a disbursement cancellation initiated by the Treasurer's Office (p. 12).
- As a result of multiple errors in the recording of transactions, the Department's 2009 and 2010 reported fund balance for the Restitution Fund is overstated by approximately \$51,000 (p. 12).

COMPLIANCE

Our audit procedures revealed the following instances of non-compliance with Suffolk County Operating Procedures (“SOPs”) and New York State Weights and Measures Laws:

- The Department is not in compliance with Suffolk County SOP No. D-08 requiring the submission of monthly bank account reconciliations with SCIN 212 (Departmental Financial Account Reporting Form) to the Suffolk County Treasurer’s Office (p. 13).
- The Department is not inspecting pharmacy scales with the frequency required by New York State Weights and Measures Law. (p. 14).
- Four fines issued by the Department pursuant to Suffolk County Law, Chapter 313, Section 18(A) were levied for an incorrect amount (p. 14).

GENERAL INFORMATION

Pursuant to Legislative Resolution No. 962-2012 dated November 20, 2012, the Suffolk County Legislature consolidated the Departmental functions of the Department of Labor and the Department of Consumer Affairs within a newly created Department of Labor, Licensing and Consumer Affairs. This Department is managed by a Commissioner who is appointed by the County Executive subject to approval of the County Legislature.

Three bureaus have been established to accomplish the Department's mission of consumer protection; Consumer Complaints, Licensing and Enforcement, and Weights and Measures. Revenue is generated through licensing fees imposed on all home improvement contractors and other contractors (such as electricians, plumbers, etc.) licensed by the Department to conduct business in Suffolk County pursuant to the requirements of the Suffolk County Code, Chapter 345. Additional revenue is generated through the imposition of fines and penalties upon licensed businesses that are not in compliance with County regulations specific to the business's trade.

Local Law No. 2-1999 created a Restitution Fund in order to provide monetary restitution up to \$5,000 for consumers who are unable to collect judgments obtained against licensed home improvement contractors. The Restitution Fund is supported through an initial fee of \$100 from all home improvement contractors applying for a license and those licensees renewing their license term for the first time after enactment of the Local Law. Qualified consumers may file for restitution after all other avenues to collect from the contractor have been exhausted; however the maximum amount that can be collected is \$5,000. During our audit of the January 1, 2009 through December 31, 2010 period, the Department recorded approximately \$9,456,000 in total revenues.

SCOPE AND METHODOLOGY

To accomplish the objectives as stated in the Letter of Transmittal (p. 1), we performed the following work:

- Interviewed Department personnel responsible for the receipt, processing, recording and reconciling of revenues including the timely remittance of revenues to the County Treasurer.
- Obtained and analyzed the Budget Review Office's comments regarding the 2009 and 2010 Recommended Operating Budget for the Department to determine if there are any concerns applicable to the audit.
- Documented the current status of recommendations reflected in a prior audit report (Report 2002-19 dated September 2, 2002) with respect to internal control and compliance findings.
- Determined and documented the procedures employed by the Department regarding the receipt, recording and depositing of revenues and the extent to which computer systems are used to record and process this information.
- Applied auditing procedures on a test basis to 50 transactions. Our procedures included, but were not limited to:
 - Verifying that fee amounts noted on receipts represented the correct fee for the type of transaction being processed.
 - Tracing and agreeing the receipt number, customer name, date and fee amount to the receipt contained in the contractor / vendor file maintained by the Department.
 - Tracing and agreeing the selected day's receipts to a validated copy of a bank deposit slip and the monthly bank statement.
 - Verifying that the date and amount is shown on the Department's Deposit Register for the appropriate period and agrees to the Department's semi-monthly Treasurer's Report.
 - Confirming that revenue was entered into the County's IFMS through the examination of Crystal reports and cancelled checks to ensure that the amount and date agrees with these extracts.
 - Utilizing computer software to detect "gaps" and "voids" in the Department's receipting system and investigate any findings.

- Reconciled the actual revenue received for the Restitution Fund per the Department's Statement of Receipts, Disbursements and Changes in Fund Balance to the revenue reflected on the County's IFMS for the 2009 and 2010 periods.
- Selected 30 transactions for testing to determine if cash disbursements from the Restitution Fund are accurate, properly recorded and in compliance with all applicable laws and regulations.
- Reconciled the reported Restitution Fund balance to the bank statements maintained by the Suffolk County Treasurer's Office.
- Determined the New York State statutory rates for all fees, fines and penalties and applicable laws governing the frequency of inspections with which the Department must comply, and documented the Department's compliance with these regulations.
- Determined the Department's compliance with the Suffolk County Code and applicable provisions governing the Department's operations.

DETAILED RESULTS OF AUDIT

INTERNAL CONTROL

The physical safeguards that exist over assets susceptible to misappropriation, specifically cash, were inadequate. In response to this prior audit finding (Report No. 2002-19), the Department indicated that cash and checks are secured in a locked drawer during the work day. However, the Department's current revenue collection procedures do not indicate that this particular procedure is followed. We observed that cash received by the Bureau of Weights and Measures remains on an Account Clerk's desk until the cash is included with the batches prepared at the close of the business day.

Recommendation 1

In order to properly safeguard assets and reduce the risk of defalcation, cash should be locked in a drawer during the day until such time as it is needed for the batching process. Cash held overnight should be locked in the Department's safe.

The Department does not have an Accounting Policies and Procedures Manual. Although the Department indicated in its response to this prior audit finding that a policies and procedures manual exists, is reviewed quarterly and updated as necessary the current Acting Commissioner indicated that no such policy and procedures manual exists.

Recommendation 2

The creation of formalized policies and procedures decreases the potential for mistakes to occur in the handling, recording and reporting of transactions due to improper training and/or inadequate segregation of duties. The Department has indicated that the

creation of a Policies and Procedures Manual will be addressed by a recently hired Accountant.

The Department does not maintain a separate listing of mail receipts. Our documentation of the Department's current revenue procedures revealed that no separate listing of mail receipts is maintained. The Department has been testing various scanners that would capture pertinent check information that can be used as a mail log for comparison to receipt records; however the Department has not found an acceptable scanning system as of this report.

Recommendation 3

The Department should continue its efforts to locate and integrate a scanning system to capture information for use as a mail log.

Revenues collected for contractor payments made by credit card were recorded twice on the County's Integrated Financial Management System (IFMS) and disbursed twice by the Department to the Suffolk County Treasurer's Office. The Department began accepting payments via credit card in August 2010. Based upon an examination of the credit card transactions processed during the August through December 2010 period, revenue of \$22,530 was collected although \$45,060 was recorded. Our audit determined that double recording of revenue resulted from the Department's posting of a daily IFMS cash receipt for the credit card transactions processed during the day, as well as an additional posting of this same revenue when bi-weekly revenues were transmitted to

the Treasurer's Office. The double payment of revenue to the Treasurer's Office resulted from the direct deposit of credit card revenue to the bank account maintained by the Treasurer's Office by a third party vendor which serves as a central processor for the various credit card transactions, in addition to the Department's inclusion of this same amount on the bi-weekly check remitted to the Treasurer's Office for revenue received during the prior two-week period.

Recommendation 4

The Department should reduce its current book balance by \$22,530 to compensate for the double recording of credit card revenues. In addition, the Department should make arrangements with the Office of the County Treasurer for reimbursement of \$22,530 in credit card revenue that was remitted twice to the Treasurer's Office and for an adjustment to the revenue reflected on the County's IFMS. Since this condition continued to exist during the 2011 year until such time as Audit and Control discovered these errors, the Department should quantify this condition for the 2011 year and effect the necessary corrections.

Deposits of \$4,450 reported in the County's IFMS for the 2009 period were not recorded in the Department's internal records of the Restitution Fund. This discrepancy was disclosed as a result of auditing procedures employed to reconcile the Department's internal records for the Restitution Fund to the Treasurer's Office records of receipts and disbursements. The Department had no explanation for the discrepancy.

Recommendation 5

We recommend that the Department perform a monthly reconciliation of the revenues reported in the County's IFMS to the revenues recorded in the Department's internal records. A reconciliation performed on a monthly basis will afford the Department the timely detection of discrepancies as well as the ability to reconcile discrepancies and remain current with the revenue recorded in the County's IFMS.

Departmental records do not contain sufficient documentation evidencing that a settlement offer was approved by a former Commissioner and communicated in writing to a contractor. A review of the Department's records reflects that the violations paid by a contractor in July 2009 in settlement of a \$3,850 assessed civil penalty totaled \$1,000. Although the current Acting Commissioner indicated that a Commissioner does have the authority to offer a reduced settlement to a contractor, an explanatory letter should be sent to the contractor advising of the settlement and the Department should retain copies of this documentation as evidentiary support of the settlement.

Recommendation 6

The Department should ensure that all documentation in support of a monetary settlement relating to the satisfaction of contractor violations is contained in the Department's records.

Testing of 30 disbursements documented in the Department's Restitution Fund case files revealed two instances in which the consumer application forms are missing the signature of the Departmental Inspector to whom the case was assigned.

A consumer's application for reimbursement from the Restitution Fund requires the signature of both the Departmental Investigator assigned to the case and the Commissioner of Consumer Affairs.

Recommendation 7

The Department should ensure that documentation required for the disbursement of Restitution funds is received and properly completed.

The Department reported disbursements from the Restitution Fund bank account for the 2009 period that are \$2,300 greater than the disbursements reported by the County Treasurer's Office resulting from the Department's failure to document and reconcile a disbursement cancellation initiated by the Treasurer's Office. Audit procedures applied to Restitution Fund disbursements revealed that the Treasurer's Office cancelled a disbursement for which the Department failed to document and reconcile in its records.

Recommendation 8

The Department should perform monthly reconciliations of Restitution Fund disbursements documented in its transaction records to those recorded by the Office of the Suffolk County Treasurer to ensure that accurate disbursement balances are maintained and carried forward to the following monthly period.

As a result of multiple errors in the recording of transactions, the Department's 2009 and 2010 reported fund balance for the Restitution Fund is overstated by approximately \$51,000. This reported net overstatement is due primarily

to the Department's failure to record two deposit transactions and mathematical formula errors used to calculate the Fund's remaining balance, as well as misinterpreting a 2008 year end balance sheet adjustment as an increase to revenue. The 2008 year-end adjustments represent automatic balance sheet closing entries that are performed at the end of each year for every County Department by Audit and Control in order to bring the prior year's balance forward to the new accounting year. It appears the Department interpreted this entry on the County's IFMS as an increase to revenue and carried this error through to the 2010 period.

Recommendation 9

On a monthly basis, the Department should reconcile its Restitution Fund balance to the Treasurer's Office Restitution Fund bank statement to ensure completeness and accuracy.

COMPLIANCE

The Department is not in compliance with Suffolk County SOP No. D-08 requiring the submission of monthly bank account reconciliations with SCIN 212 (Departmental Financial Account Reporting Form) to the Suffolk County Treasurer's Office. Suffolk County SOP No. D-08 requires that a copy of each bank account reconciliation, approved by a supervisory employee, be submitted to the County Treasurer's Office. Our audit revealed that the Department is approximately one year in arrears in submitting these bank reconciliations. In addition, the Department is approximately one year in arrears with respect to submitting the Suffolk County SCIN 212

to the Treasurer's Office on a monthly basis, together with a copy of the most recent bank statement.

Recommendation 10

The Department should comply with Suffolk County Standard Operating Procedure No. D-08 and perform the required bank account reconciliations within 30 days of receiving the account statement from the bank and submit the reconciliation and accompanying documentation together with the Suffolk County SCIN 212 form.

The Department is not inspecting pharmacy scales with the frequency required by New York State Weights and Measures Law. Article 16 of this legislation requires an inspection no less than once every two years. During discussions conducted with the Acting Commissioner, it was indicated that the Department is in compliance with the inspection frequencies for all devices with the exception of pharmacy scales.

Recommendation 11

Although projected revenues, exclusive of applicable fines, generated from these inspections would total approximately \$9,000 (approx. 450 devices @ \$20 per inspection), the Department should ensure that pharmacy scales are inspected within the required frequency mandated by New York State Weights and Measures Law.

Four fines issued by the Department pursuant to Suffolk County Law, Chapter 313, Section 18(A) were levied for an incorrect amount. A review of the Department's 2010 Annual Report to the NYS Department of Agriculture and Markets

revealed that four violations of either \$100 or \$200 levied against violators should have been a minimum of \$250 as required by County law.

Recommendation 12

Although the total difference between the amounts levied and the amounts required by County law was not considered material, the Department should ensure that all fines are levied in accordance with County Law. We recommend that the Department prepare a schedule reflecting the inspection type and associated fines required by County Law to ensure compliance with the law and the uniform application of these fines by all Inspectors.

We wish to extend our appreciation to the Acting Commissioner and staff of the former Suffolk County Department of Consumer Affairs for their cooperation and courtesies extended to us during the conduct of this audit.

This report is intended solely for the information and use of the Suffolk County Department of Labor, Licensing and Consumer Affairs and responsible Suffolk County officials and is not intended to be used by anyone other than these specified parties.

SCHEDULES

Note: The accompanying schedules are an integral part of this report and should be read in conjunction with the Letter of Transmittal (p. 1).

Schedule 1

Department of Consumer Affairs
 Statement of Restitution Fund Revenues, Expenditures and Changes in Fund Balance - Fund 482, for the
 12-Month Period Ending December 31, 2009

Notes	Category	Amount Reported	Amount Audited	Amount Over/(Under) Reported
	Revenues			
	Fees Collected	\$ 116,839	\$ 82,900	
	Contractor Repayments	-	33,939	
	Total Fees and Repayments	116,839	116,839	-
	Interest Income	2,427	2,427	-
	Total Revenues	<u>\$ 119,266</u>	<u>\$ 119,266</u>	-
	Expenditures			
(1)	Restitution Fund Claim Payments	191,665	189,365	2,300
	Total Expenditures	<u>\$ 191,665</u>	<u>\$ 189,365</u>	<u>\$ 2,300</u>
	Revenues Over / (Under) Expenditures	(72,399)	(70,099)	(2,300)
	Fund Balance - January 1, 2009	\$ 254,649	\$ 254,649	-
	2009 Revenues	119,266	119,266	-
	2009 Expenditures	(191,665)	(189,365)	2,300
(2)	Reconciling Item	-	115	115
	Fund Balance - December 31, 2009	<u>\$ 182,250</u>	<u>\$ 184,665</u>	<u>\$ (2,415)</u>

See Notes to Schedule (p. 20).

Schedule 2

Department of Consumer Affairs
 Statement of Restitution Fund Revenues, Expenditures and Changes in Fund Balance - Fund 482, for the
 12-Month Period Ending December 31, 2010

<u>Notes</u>	<u>Category</u>	<u>Amount Reported</u>	<u>Amount Audited</u>	<u>Amount Over/(Under) Reported</u>
	Revenues			
	Fees Collected	\$ 96,015	\$ 80,300	
	Contractor Repayments	-	15,715	
	Total Fees and Repayments	96,015	96,015	-
	Interest Income	651	651	-
	Total Revenues	<u>\$ 96,666</u>	<u>\$ 96,666</u>	-
	Expenditures			
	Restitution Fund Claim Payments	156,845	156,845	-
	Total Expenditures	<u>\$ 156,845</u>	<u>\$ 156,845</u>	-
	Revenues Over / (Under) Expenditures	\$ (60,179)	\$ (60,179)	-
	Fund Balance - January 1, 2010	\$ 182,250	\$ 184,665	\$ (2,415)
	2010 Revenues	96,666	96,666	-
	2010 Expenditures	(156,845)	(156,845)	-
	Fund Balance - December 31, 2010	<u>\$ 122,071</u>	<u>\$ 124,486</u>	<u>\$ (2,415)</u>

See Notes to Schedule (p. 20).

Notes to Schedules
Suffolk County Department of Consumer Affairs
For the Period January 1, 2009 through December 31, 2010

- (1) The Department overstated Restitution Fund Claim Payments to consumers in the amount of \$2,300 resulting from the Treasurer's Office cancellation of an issued check that was not reflected in the Department's records.

- (2) Reconciling item represents an understatement of reported Fund revenue deemed immaterial for further analysis.

APPENDICES

APPENDIX A

COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

SAMUEL CHU
COMMISSIONER
DEPARTMENT OF LABOR, LICENSING &
CONSUMER AFFAIRS
725 VETERANS MEMORIAL HIGHWAY
HAUPPAUGE, N.Y. 11788

ADDRESS CORRESPONDENCE TO:
P.O. BOX 6100
HAUPPAUGE, N.Y. 11788-0099
e-mail: sc.dol@suffolkcountyny.gov
PHONE # (631) 853-6600
www.suffolkcountyny.gov/labor

November 21, 2013

Mr. Frank Bayer
Executive Director of Auditing Services
H. Lee Dennison Building, 9th Floor
P.O. Box 6100
Hauppauge, New York 11788

Dear Mr. Bayer:

In response to your October 23, 2013 email, the Suffolk County Department of Labor, Licensing and Consumer Affairs has reviewed your preliminary findings regarding your audit of Consumer Affairs operation.

Although many of the identified issues have been resolved as a result of the two agencies merging, we have provided a response to each of the issues in the attached document.

If you still have any concerns or questions regarding these issues, please feel free to call Mr. Raymond O'Rourke at 36612.

Very truly yours,

Samuel Chu
Commissioner

SC:kp
Attachment

cc: Manual Alban, Chief Auditor
Department of Audit and Control
Pamela Killoran, Deputy Commissioner
Suffolk County Department of Labor, Licensing & Consumer Affairs

APPENDIX A

Internal Controls

- 1. Inadequate physical safeguards exists over assets that are susceptible to misappropriation, specifically cash (prior audit finding, Report No. 2002-19)**

The Departments policy is that cash is only accepted from a vendor when they are on-site. The cash is receipted immediately by a designated account clerk. The receipt is given to the vendor and a copy of the receipt with the cash is locked in a cabinet. The vendor is not to leave the premises until he/she has received their receipt of payment. At the end of the day, the cash with receipts are taken to Finance where it is locked in a safe. The next morning Finance reconciles payments. Payments are prepared for deposit. After deposit, Finance reviews and reconciles.

- 2. The Department does not have an Accounting Policies and Procedures Manual (prior audit finding, Report No. 2002-19)**

This issue has been resolved as a result of the merger. The Suffolk County Department of Labor, Licensing & Consumer Affairs (SCDOLLCA) maintains an Accounting Policies and Procedures Manual which can be provided if necessary.

- 3. The Department does not maintain a separate listing of mail receipts (prior audit finding, Report 2002-19)**

This is correct. Payments received by mail are receipted and the payment is locked in the cabinet with a copy of the receipt. The original receipt is mailed to the vendor. All mail received by the Department is date stamped and filed accordingly.

- 4. Revenues collected through contractor payments by credit card were recorded twice on the County's Integrated Financial Management System (IFMS) and disbursed twice by the Department to the County Treasurer's Office.**

Current Department policy states that no individual shall have complete control over all phases of any significant transaction. In other words, the same person cannot authorize payment, record transactions, and sign checks. Monthly reconciliations and verifications of cash balances with bank statements shall be made by employees who do not handle or record cash, or sign checks.

- 5. Deposits of \$4,450 reported in the County IFMS for 2009 period were not recorded in the Department's Restitution Fund internal records.**

See response provided to issue number 4.

APPENDIX A

- 6. Departmental records do not contain sufficient documentation evidencing that a settlement offer was approved by the former Commissioner and communicated in writing to the contractor.**

Current policy requires that when a settlement is reached, documents pertaining to the settlement are signed by a Consumer Affairs representative, the consumer and the vendor. All documentation is kept in the case/violation folder. In cases where a settlement is reached over the phone, the Consumer Affairs representative mails the settlement documents to both parties for signature. Once returned to the office they are filed in the appropriate case/violation folder. Copies of all documents are forwarded to the Department's Finance Unit for payment processing. The Finance Unit will only issue payment if all required documents are provided and properly signed.

- 7. Testing of thirty (30) disbursements from the Restitution Fund case files revealed two instances in which the consumer application forms are missing the signature of the Departmental investigator to whom the case was assigned.**

See response to issue number 6 above.

- 8. The Department reported disbursements from the Restitution Fund bank account for the 2009 period that are \$2,300 greater than the disbursements reported by the County Treasurer's Office resulting from the Departments failure to document and reconcile a disbursement cancellation initiated by the Treasurer's Office.**

Current Department policies require reconciliation and verification of cash balances with bank statements every month.

- 9. As a result of multiple errors in the recording of transactions, the Department's 2009 and 2010 reported fund balance for the Restitution Fund is overstated by approximately \$51,000.**

Current Department policies require reconciliation and verification of cash balances with bank statements every month.

Compliance

Our audit procedures revealed the following instances of non-compliance with Suffolk County Operating Procedures (SOPs) and the New York State Weights and Measures laws:

APPENDIX A

- 1. The Department is not in compliance with Suffolk County SOP No. D-08 requiring the submission of monthly bank accounts reconciliations with SCIN- 212 (Department Financial Account Reporting Form) the Suffolk County Treasurer's Office.**

Consumer Affairs is now in compliance as a result of the merger. The most recent reconciliation was submitted on October 24, 2013.

- 2. The Department is not inspecting pharmacy scales with the frequency required by the New York State Weights and Measures Laws.**

Based on the 2012 Weights and Measures Report to NYS, there were no prescription scales within the Suffolk County Jurisdiction. In addition, due to limited staffing, some devices that fall under the jurisdiction of Weights and Measures are tested and inspected only on a complaint or request basis. Pharmacy scales, glassware, coin counting machines, clothes dryer timers, parking meters, tournament scales and linear measures (rope or wire measuring devices) just to name a few are handled in this manner.

The focus for regular routine inspection is primarily related to direct retail sales or where ever complaints occur. When time and resources permit additional compliance inspections are made to survey different market areas. When violations or errors in measurement are occurring in an area of the market place, then more emphasis (inspection) is applied as required for compliance in those areas.

- 3. Four (4) fines issued by the Department pursuant to Suffolk County law, Chapter 313, Section 18(A) were levied for an incorrect amount.**

This law has been replaced by Article V, Section 494-25 (Gasoline Sales, Registration of Motor Fuel Distributors). A person who violates this provision shall be subject to a civil penalty of not less than \$1,000 or more than \$10,000. Investigators and Hearing Officers are not to charge less than or more than the listed penalty amount.

- 4. Our examination of the Department's Restitution Fund revenues and disbursements for the 2009 and 2010 periods determined that disbursements exceed revenues by an average of \$66,288. If this trend continues, the Restitution Fund could become insolvent within three (3) years.**

The Fund collected \$113,475 during 2013 and paid out \$40,962. Our current balance is now over \$180,000.

APPENDIX A

5. **The addition of one (1) Department Inspector to conduct non-waiver Item Pricing and Package Control program inspections could yield a net revenue gain of approximately \$107,500 to the County (p.16). Despite repeated attempts over a two month period, the Department failed to respond to Audit and Control request for information regarding the number of Non-waiver Item Pricing and Packaging Control inspection that could be performed in a day. As a result, this finding is based upon performing one inspection per day.**

A staff member has been appointed to provide oversight of the Non-waiver Item Pricing and Package Control Program. Based on their input, general inspection time of a Non-Waiver retail store on average is approximately 1 hour. This time however, can be increased due to store management's familiarity, or lack thereof with the inspection procedure. Based on the average inspection lasting 1 (one) hour and allowing for travel time between locations then the inspector should be able to complete 4-5 inspections daily.

APPENDIX B

Audit and Control's Assessment of Department's Response to Audit

The Department declined the opportunity to attend an exit conference; however the Department submitted a written response (Appendix A, p. 22) to the preliminary audit findings provided to them in October 2013. Although the Department indicates that many of the identified issues have been resolved as a consequence of the consolidation of the Department of Labor and the Department of Consumer Affairs, our assessment of the Department's response to the audit findings is as follows:

Internal Controls

1. The Department asserts that adequate safeguards exist over assets that are susceptible to misappropriation, specifically cash. Although the procedures indicated in the Department's response reflect that cash is locked in a cabinet following a vendor transaction, Audit and Control staff did observe, on several occasions, cash remaining on an Account Clerk's desk with no individual in the vicinity of the unguarded cash. Realizing the possibility that our observations represented an exception to established procedures, we accept the Department's response that procedures are in place and being followed to provide adequate safeguarding of assets.
2. The Department indicates that, as a consequence of the consolidation, an Accounting Policies and Procedures Manual is maintained and available for inspection.
3. The Department agreed that a separate listing of mail receipts is not maintained; however adequate procedures are in place with respect to the date stamping and filing. We encourage the Department to consider the use of a scanning system to capture information from mail receipts, the resulting information of which could function both as a mail log and a data base for comparison to revenue receipt records on an as-needed basis for the purpose of quality assurance.
- 4, 5. The Department indicates that current policy reflects a segregation of duties regarding the recording and subsequent transfer of revenue to the Suffolk County Treasurer. We concur with the Department's policy to institute procedures for the segregation of duties regarding the receipt of payments, recording the transaction and the transfer of this revenue to the Office of the County Treasurer.

APPENDIX B

**Audit and Control's Assessment
of
Department's Response to Audit**

- 6, 7. The Department's current record keeping policy regarding a monetary settlement between a vendor and consumer requires that all proper documentation is provided and properly authorized prior to the issuance of payment by the Department's Finance Unit. We concur with the Department's efforts to maintain properly approved written documentation regarding settlements between vendors and consumers, as well as all transactions between the Department and the consumer.
- 8, 9. We concur with the Department's procedures to conduct monthly reconciliations of cash balances and bank statements.

Compliance

1. Audit procedures revealed that the Department was not in compliance with Suffolk County SOP D-08 requiring the submission of monthly bank account reconciliations to the Suffolk County Treasurer's Office. As a result of the recent consolidation, the Department indicates it is now in compliance with this SOP.
2. The Department indicates that no pharmacy scales fall within Suffolk County's jurisdiction in response to our audit finding that the Department is not inspecting pharmacy scales within the frequency required by NYS Weights and Measures Law. The Department further added that, due to limited staffing, some devices that fall under the jurisdiction of Weights and Measures are inspected only on a complaint or request basis. We should note that the prior Acting Commissioner asserted that the Department is in compliance with the inspection frequencies for all devices with the exception of pharmacy scales.
3. The Department responded to our audit finding regarding the issuance of fines not in accordance with the level prescribed by Suffolk County law, indicating that this law (Chapter 13, Section 18(A)) has been replaced by Article V, Section 494-25 requiring that investigators and hearing officers are not to levy fines less than or exceeding the listed penalty amount.

APPENDIX B

**Audit and Control's Assessment
of
Department's Response to Audit**

4. The Department indicated that the current balance of the Restitution Fund is in excess of \$180,000 with receipts exceeding disbursements by over \$72,000 in the 2013 period. Our initial audit finding reflected a trend that could have resulted in the insolvency of the Restitution Fund within a three year period should the Fund's receipts and disbursements during the 2009 and 2010 period continue at the same level of activity. Based upon this balance, we are confident that the Restitution Fund's financial condition will remain sufficiently healthy to sustain itself for the foreseeable future. Our initial audit finding has been removed from the final report.

5. As a result of discussions among Audit and Control personnel assigned to this audit and the Department's appointment of an employee to oversee the Non-Waiver Item Pricing and Package Control programs, our initial audit finding has been removed from the final report.