STATE OF CONNECTICUT

AUDITORS' REPORT
DEPARTMENT OF CONSUMER PROTECTION
FOR THE FISCAL YEARS ENDED JUNE 30, 2008 AND 2009

AUDITORS OF PUBLIC ACCOUNTS

KEVIN P. JOHNSTON ❖ ROBERT G. JAEKLE

Table of Contents

January 24, 2011

AUDITORS' REPORT
DEPARTMENT OF CONSUMER PROTECTION
FOR THE FISCAL YEARS ENDED JUNE 30, 2008 AND 2009

We have made an examination of the records of the Department of Consumer Protection for the fiscal years ended June 30, 2008 and 2009.

This report on that examination consists of the Comments, Condition of Records, Recommendations and Certification which follow. Financial statements concerning the operations and activities of the Department of Consumer Protection (Department) are presented and audited on a Statewide Single Audit basis to include all State agencies. This audit has been limited to assessing the Department's compliance with certain provisions of financial related laws, regulations, contracts and grants, and evaluating the Department's internal control policies and procedures established to ensure such compliance.

COMMENTS

FOREWORD:

The Department of Consumer Protection operated generally under the provisions of Chapters 416 and 545 of the Connecticut General Statutes, to enforce legislation intended to protect the consumer from injury by product use or merchandising deceit and to protect public health and safety through control over the distribution and sale of alcoholic beverages. Such legislation was generally within various Chapters of the following General Statute Titles: Title 20 (Examining Boards and Professional Licenses), Title 21 (Licenses), Title 21a (Consumer Protection), Title 30 (Intoxicating Liquors), Title 42 (Business, Selling, Trading and Collection Practices), and Title 43 (Weights and Measures).

The Department's personnel, payroll, affirmative action and some of the business office functions are performed by the Department of Administrative Services' Small Agency Resource Team and Business Office. The Department's staff is responsible for receipt collection and processing; accounts receivables; and Guaranty Fund functions.

Gerald E. Farrell, Jr. served as Commissioner during the audited period.

Boards and Commissions:

Various sections of the General Statutes provide that certain boards and commissions operate within the Department of Consumer Protection. Presented below is a summary of these groups and its members as of June 30, 2009, statutory references and former members who served during the audited period follow.

BOARD OR COMMISSION	CHAIRPERSON	MEMBERS AS OF JUNE 30, 2009	ALSO SERVED DURING AUDITED PERIOD
Architectural Licensing Board (Section 20-289)	S. Edward Jeter	David H. Barkin Carole W. Briggs Robert B. Hurd Lucille Trzcinski	Christopher Mazza Joseph R. Russo
State Board of Examiners for Professional Engineers and Land Surveyors (Section 20-300)	Anthony L. D'Andrea	Theodore M. Barberi John T. DeWolf Robert L. Doane William Giel Robert Grossenbacher John Hallisey Rocco V. Laraia, Jr. Terry D. McCarthy Al Regina Curtiss B. Smith One vacancy	Edward Farrel
Connecticut Real Estate Commission (Section 20-311a)	Barbara Thompson	Joseph B. Castonguay Theodore F. Ellis, Esq. James Hoffman Marilyn Keating Joseph H. Kronen Lana Ogrodnik Morag Vance	

Connecticut Real Estate Appraisal Commission (Section 20-502)	Christopher Italia	Francis Buckley, Jr. Sean Hagearty Norris A. Hawkins Russell Hunter Gerald V. Rasmussen Nicholas J. Tetreault One vacancy	Russell Hunter Fay Shepard
Connecticut State Board of Landscape Architects (Section 20-368)	Vincent C. McDermott	W. Phillips Barlow Denise E. Cooper Paul E. Corchaine Robert W. Hammersley Shavaun Towers Stephen S. Wing	Maureen Connelly Dickson F. DeMarche
Electrical Work Examining Board (Section 20-331(b))	Laurence A. Vallieres	Ronald Bish Eric Collett Roger L. Johnson, Jr. Stephen W. Knight Kenneth B. Leech David Munsill Iris Papale Douglas A. Reid Raymond A. Turri John W. Yusza One vacancy	
Heating, Piping, Cooling, and Sheet Metal Work Examining Board (Section 20-33(c))	Robert H. Barrieau	Philip H. Benoit Thomas F. Casey, Jr. Cameron Champlin, Jr. Christopher Dupuis Ronald J. Crabb Mario DiNatalie Patrick Duane David G. Foster Philip Kent Barbara Riotte Michael Rosario	Joseph Leggo Thomas Fusciello Joseph Minoski Paula Welch

Home Inspection Licensing Board (Section 20-490a)	Susan A. Connors	Eric Curtis Richard J. Kobylenski Bruce D. Schaefer William Stanley, Jr. Lawrence R. Willette	Bernard F. Caliendo
Plumbing and Piping Work Examining Board (Section 20-331(d))	Charles E. Appleby, Sr.	Herbert J. Barnes Christopher Bowman Anthony Calandrino Frank J. DaCato John R. Damico James Piccoli Carl W. Schaefer George C. Sima Melissa C. Sheffy John R. Sullivan Joyce Topshe	Michael E. Cluney Robert Stolting
Elevator Installation, Repair and Maintenance Work Examining Board (Section 20-331(e))	John R. DeRosa, Jr. (Acting Chairman)	Joseph Bayusik Garry Bazzano Paul B. Farnsworth Michael D. Griffin Thomas J. O'Reilly Gaetano T. Zapala One vacancy	Sally Katz
Fire Protection Sprinkler System Work Board (Section 20-331(f))	David J. Waskowicz	James M. Barry Thomas E. Booth Luis A. Coreano Robert W. Hollis III John Michalewicz Ralph C. Miller Anthony D. Moscato Kevin M. Wypychoski	William Zisk, Sr.

Automotive Glass Work and Flat Glass Work Examining Board (Section 20-331(g))	Edward J. Fusco	Brian Blank Carl Von Dassel David Olender Frank Pitrone John A. Wisniewski Jennifer Russell-Vanasse David Willis	Robert Steben
Commission of Pharmacy (Section 20-572)	William J. Summa, Jr.	Stephen F. Beaudin Edith G. Goodmaster Robert S. Guynn Jean Mulvihill Frederick C. Vegliante	Robert S. Guynn
State Board of Examiners of Shorthand Reporters	John C. Brandon	Joseph DeFilippo William Mangini Patricia Masi Walter Rochow Cheryl Stern	Susan K. Whitt
Mobil Manufactured Home Advisory Council (Section 21-84a)	Bennett Pudlin	Mark Berkowitz Leonard S. Campbell Joseph B. Castonguay Timothy Coppage Miriam Clarkson Ervin Cohen George W. Cote Neil F. Gervais Albert N. Hricz Keith Jensen Michelina Lauzier Debra Russo Marcia L. Stemm One vacancy	Neil Gervais Lawrence Hallisey Jeffrey Ossen
Liquor Control Commission (Section 30-2)	Gerald E. Farrell, Jr. (Commissioner)	Angelo Faenza Stephen R. Somma	Gary Berner

RÉSUMÉ OF OPERATIONS:

General Fund:

General Fund receipts of the Department were comprised mainly of payments for licenses to render professional services, to engage in skilled trades and certain businesses, and for liquor permits. A comparison of receipts for the fiscal years under review and the preceding year follows:

	2006-2007	2007-2008	2008-2009
Licenses	$18,263,255	$20,217,203	$17,994,703
Permits	6,482,473	6,494,541	6,582,720
Fees	2,388,965	2,589,855	2,456,790
Fines, penalties, forfeitures	982,848	659,887	850,291
All other receipts	56,282	53,695	5,660
Total General Fund Receipts	**$28,173,823**	**$30,015,181**	**$27,890,164**

Revenue collected for licenses and permits accounts for approximately 88 percent of the Department's receipts. The increase and subsequent decrease in license receipts during the 2007-2008 and 2008-2009 fiscal years, respectively, is attributed to several types of licenses being collected on a biennial basis. This results in a substantial increase in one fiscal year and a decrease in the next fiscal year.

Comparative summaries of General Fund expenditures for the fiscal years under review and the preceding fiscal year are presented below:

	2006-2007	2007-2008	2008-2009
Personal Services and Employee Benefits:	$9,666,714	$10,342,477	$10,181,082
Purchases and Contracted Services:			
Postage	195,128	209,202	195,682
Motor Vehicle Costs	385,370	435,744	438,948
Information Technology	346,336	225,021	207,462
Purchased Commodities	113,552	125,156	63,516
All other	392,208	335,574	262,847
Total Purchases and Contracted Services	$1,432,594	$1,330,697	$1,168,455
Total General Fund Expenditures	**$11,099,308**	**$11,673,174**	**$11,349,537**

General Fund expenditures remained relatively constant during the fiscal years ended June 30, 2008 and 2009, respectively. There were 134 full-time General Fund employees as of June 30, 2009.

Special Revenue Fund – Federal and Other Restricted Accounts:

The Department's Federal and Other Restricted Accounts receipts totaled $3,610,832 and $4,139,501 for the fiscal years ended June 30, 2008 and 2009, respectively. These receipts consist primarily of non-Federal restricted revenue, such as fines collected and deposited to the Consumer

Protection Enforcement Account, transfers made from the Department of Revenue Services for salaries and expenditures for agents assigned to the casinos, and transfers of surpluses when available from the New Home Construction and Home Improvement Guaranty Funds.

In addition, the Department also collected and deposited revenues to the Special Transportation Fund in the amount of $1,026,658 and $897,010, for the fiscal years ended June 30, 2008 and 2009, respectively. These revenues consisted of registration fees for motor fuel dispensers and weighing or measuring devices pursuant to Section 43-3 of the General Statutes.

Comparative summaries of expenditures for the Special Revenue Fund - Federal and Other Restricted Accounts for the fiscal years under review and the preceding fiscal year are presented below:

	2006-2007	**2007-2008**	**2008-2009**
Personal Services and Employee Benefits:			
Salaries and Wages	$1,662,558	$1,814,604	$2,063,397
Employee Benefits	984,939	1,060,215	1,200,101
All other	31,580	35,715	19,937
Total Personal Services and Employee Benefits	$2,679,077	$2,910,534	$3,283,435
Purchases and Contracted Services:			
Information Technology	16,191	139,072	305,016
Indirect Overhead-Federal and Other Projects	7,973	57,655	220,578
All other	154,563	236,561	286,528
Total Purchases and Contracted Services	178,727	433,288	812,122
Total Special Revenue Fund Expenditures	**$2,857,804**	**$3,343,822**	**$4,095,557**

The Federal and Other Restricted Accounts Fund is used primarily to record expenditures relating to personal services and fringe benefit costs of employees working on specific projects within the Department. There were 28 full time employees paid from the Special Revenue Fund as of June 30, 2009.

In addition to the above Special Revenue Fund expenditures, capital equipment purchases totaling $156,934 and $107,900 were paid from the Capital Equipment Purchases Fund during the 2007-2008 and 2008-2009 fiscal years, respectively.

Fiduciary Funds:

During the audited period, the Department used a pending receipts fund and several expendable trust funds to account for certain financial activities. A description of fiduciary fund activities for the audited period follows:

Pending Receipts Fund:

The Department used a pending receipts fund to hold moneys in a custodial capacity until final disposition was determined. Three sub-accounts were used within the Agency's pending receipts fund for various purposes. A brief description of pending receipts activity and a schedule of financial transactions for the audited period follows:

1. *Real Estate Licenses* – Section 10a-125 of the General Statutes requires that eight and three-quarters percent of each real estate brokers and salesperson licenses and fees be paid to the University of Connecticut (UConn), Center for Real Estate and Urban Economic Studies. Fees collected for real estate salespersons and broker licenses are deposited directly to the General Fund with periodic transfers to a pending receipts account which, in turn, is transferred to UConn.

2. *Federal Appraiser Certification* – This account was used to collect a $25 fee from real estate appraisers to pay for Federal registration and certification, as required by Section 20-511, subsection (c), of the General Statutes.

3. *All Other* – This account was used for all other transactions which were pending resolution such as closing out sales, license fees, fines, penalties and settlements.

	Total	Real Estate Licenses	Federal Appraiser Certification	All Other
Cash Balance – July 1, 2007	**$683,117**	**$321,475**	**$ 23,141**	**$ 338,501**
Receipts	1,493,731	586,831	43,223	863,677
Disbursements:				
University of Connecticut	(608,521)	(608,521)	-	-
All others	(1,042,469)	-	(46,875)	(995,594)
Cash Balance – June 30, 2008	**$525,858**	**$299,785**	**$19,489**	**$206,584**
Receipts	1,189,925	569,972	40,660	579,293
Disbursements:				
University of Connecticut	(762,692)	(762,692)	-	-
All others	(629,281)	-	(40,350)	(588,931)
Cash Balance – June 30, 2009	**$323,810**	**$107,065**	**$19,799**	**$196,946**

Guaranty Funds:

The Department used five guaranty funds during the audited period to receive deposits and pay claims in accordance with statutory provisions. A schedule of financial transactions for the audited period is presented below along with a brief description of guaranty fund operations.

	Guaranty Trust Funds				
	Health Club	**Real Estate**	**Home Improvement**	**Itinerant Vendor**	**New Home Construction**
Cash Balance – July 1, 2007	**$350,679**	**$539,038**	**$765,238**	**$57,800**	**$749,816**
Total Receipts	158,695	148,793	3,399,042	6,000	2,033,169
Investment Income	17,601	24,728	37,516	-	42,929
Transfers - Special Revenue Fund Restricted Accounts	-	-	(400,000)	-	(300,000)
Transfers - General Fund	(171,935)	(145,930)	(882,989)	(9,400)	(1,282,154)
Net Receipts	4,361	27,591	2,153,569	(3,400)	493,944
Disbursements	(15,371)	(46,462)	(2,509,948)	-	(621,201)
Cash Balance – June 30, 2008	**$339,669**	**$520,167**	**$408,859**	**$54,400**	**$ 622,559**

	Health Club	**Real Estate**	**Home Improvement**	**Itinerant Vendor**	**New Home Construction**
Cash Balance – June 30, 2008	**$ 339,669**	**$520,167**	**$ 408,859**	**$54,400**	**$ 622,559**
Total Receipts	145,725	157,129	3,286,376	9,900	376,620
Investment Income	6,826	9,827	6,893	-	8,847
Transfers - Special Revenue Fund Restricted Accounts	-	-	(400,000)	-	-
Transfers - General Fund	(28,114)	(165,452)	(425,996)	(49,600)	-
Net Receipts	124,437	1,504	2,467,273	(39,700)	385,467
Disbursements	(114,106)	(25,000)	(2,650,712)	-	(730,419)
Cash Balance – June 30, 2009	**$350,000**	**$496,671**	**$225,420**	**$14,700**	**$277,607**

Note: Guaranty Trust Fund cash balances presented above include both cash with the State Treasurer and amounts invested in the State Treasurer's Interest Credit Program.

Health Club Guaranty Fund

This trust fund operated under the provisions of Section 21a-226 of the General Statutes and was used to reimburse members of registered health club facilities for unused paid contract balances when health clubs cease operations and have no resources available to issue refunds. Receipts consisted of annual fees paid by health clubs of either $500 or $100 dependent on the nature of the facility and investment earnings. The authorized balance of this fund is $350,000 which was the balance as of June 30, 2009.

Real Estate Guaranty Fund

This trust fund operated under the provisions of Sections 20-324a through 20-324j of the General Statutes and was used to compensate up to $25,000, any person aggrieved by actions of registered real estate brokers and salespersons. Receipts consisted of a one-time fee of $20 paid by real estate brokers and salespersons when registering for the first time. Investment earnings of this fund were credited to the General Fund. The authorized balance of this fund is $500,000 and amounts in excess of this limit are required to be transferred to the General Fund. As of June 30, 2009, the fund balance was below the authorized limit at $496,671.

Home Improvement Guaranty Fund

This trust fund operated under the provisions of Section 20-432 of the General Statutes and was used to reimburse homeowners up to $15,000 for losses or damages per contract caused by actions of registered home improvement contractors. Receipts consisted of a $100 annual fee paid by home improvement contractors and a $40 annual fee paid by salespersons, investment earnings, and repayments from contractors ordered by the Department as restitution. The authorized balance of this fund is $750,000. On an annual basis, any amounts in excess of this limit are first credited up to $400,000 to the Home Improvement Enforcement Account; a special revenue fund account used for home improvement and construction enforcement purposes. Any amounts over these thresholds are transferred to the General Fund. As of June 30, 2009, the fund balance was well below the authorized limit at $225,420.

Itinerant Vendor Guaranty Fund

This trust fund operated under the provisions of Section 21-33b of the General Statutes and was used to satisfy consumer claims of up to $500 against a registered itinerant vendor. An itinerant vendor is one who engages in a temporary or transient business in this State, either in one locality or traveling from place to place. Receipts consisted of an annual fee of $100 paid by itinerant vendors. If invested, earnings are to be retained by this fund. The authorized balance of this fund is $50,000 and any amounts over this balance are to be credited to the General Fund. As of June 30, 2009, the fund balance was well below the authorized limit at $14,700.

New Home Construction Guaranty Fund

This trust fund operates under Section 20-417i of the General Statutes and was used to reimburse new construction homeowners up to $30,000 for losses or damages caused by actions of a registered new home construction contractor. Receipts consisted of a biennial fee of $480 paid by new home construction contractors, and investment earnings. The authorized balance of this fund is $750,000. Amounts in excess of $750,000 are first credited up to $300,000 to the Consumer Protection Enforcement Account (CPEA); a special revenue fund account, and any excess amounts are transferred to the General Fund. As of June 30, 2009, the fund balance was well below the authorized limit at $277,607.

CONDITION OF RECORDS

Our review of the records of the Department of Consumer Protection revealed certain areas requiring improvement or attention, as discussed in this section of the report.

Late Depositing of Receipts:

Criteria: Section 4-32 of the General Statutes requires that receipts in excess of $500 be deposited and accounted for within 24 hours. Individual receipts under $500 may be held until the total sum of all receipts reaches $500; however, individual receipts may not be held for longer than seven calendar days before being deposited and accounted for.

Supporting documentation should be maintained in accordance with the State's record retention schedule.

Condition: Although the Department received a two business day waiver to extend the requirement for depositing receipts within 24 hours, our test of receipts collected by the Lemon Law Unit found five out of ten, totaling $1,743, were deposited between three and 23 days late.

Application or renewal forms for five out of 25 receipts collected by the Department's License Services Division, totaling $1,384, could not be located. As a result, we could not verify whether the receipts were deposited on a timely basis or correctly recorded in the accounting records.

Effect: Late depositing of receipts indicates noncompliance with statutory requirements which could result in receipts being lost, stolen or not properly recorded.

Cause: The delays in depositing Lemon Law receipts were apparently due to only one employee being responsible for the deposits and may have had other duties at times which took priority. We were unable to determine the cause for failing to retain renewal forms.

Recommendation: The Department should comply with Section 4-32 and deposit receipts in a timely manner. (See Recommendation 1.)

Agency Response: "The Department has reviewed this condition and notes that these deposits consisted primarily of "Lemon Law" dealership fees. These fees are collected on a quarterly basis which sometimes creates a back log for the one employee responsible for processing them. The Department anticipates that an additional employee will be trained to be available as "back up" for the individual who currently performs this task. "

E-Licensing Receipts:

Background: The Department uses software called "E-licensing" to record and track the various licenses issued and renewed either on-line, by mail or in person. This system is also used for enforcement activities such as license suspension and for the public's verification of licenses through the Department's website.

Criteria: Sound internal control procedures would require that cash and non-cash transactions be clearly distinguished in the financial records accounting for the daily cash receipts. Cash receipts reports should consistently reflect actual cash collections without the continuing need for numerous adjusting entries.

Condition: Our review of licensing receipts showed an overall internal control weakness in the E-licensing system accounting for daily cash receipts. Our test showed 6 out of 25 instances where reports of daily cash receipts did not agree with actual cash receipts recorded in the Core-CT system without adjustments. We note that there are no distinctions between manual non-cash adjustment entries and normal cash receipt entries in the E-licensing system. Thus, significant working knowledge is required to identify entries that are non-cash for daily adjustments.

Effect: The E-licensing daily cash reports are not reliable therefore increasing the risk of undetected errors or losses.

Cause: It appears the E-licensing system does not allow for non-cash transactions to be initially categorized in the proper account.

Recommendation: Licensing receipts should be recorded in the correct general ledger accounts with the correct amounts. (See Recommendation 2.)

Agency Response: The Department has reviewed this condition and must note that we do not rely on our E-license system for this check and balance. This is only the first step in balancing with Core-CT. A separate spread sheet is used to account for adjustments and subsequently used to balance to Core-CT. The daily deposit report utilized during this audit period has been modified as of March 2010 which eliminates deposits of lockbox, PSI and credit cards. As per the Auditors' notes, manual adjustments still appear for lockbox and PSI that are not expressly noted as such on the report. We will continue to work with our software company to develop reports that do not include manual adjustments for PSI and lockbox, or at a minimum the report will specifically identify those manual adjustments."

Guaranty Funds-Write-Off of Accounts Receivable:

Criteria: Proper internal control requires a separation of duties between the recording and writing off of accounts receivables.

Condition: Our test sample consisted of 20 receivables written-off from the Home Improvement and the New Home Construction Guaranty Funds. When referring receivables to DAS Collections, the Department‘s business office writes a note in the accounting system ledger indicating the date it was referred. Since the Department does not keep any other records of the referral on file, we could not verify whether receivables were properly referred to DAS Collections. There was no documentation to verify whether the employee authorizing the transfer of collection efforts on a receivable, by forwarding it to DAS Collections, was separate from the individual recording the write-off of the receivable in the accounting records.

Effect: The Department’s accounts receivable may be improperly or incorrectly written-off resulting in a loss of State funds.

Cause: The Department lacks procedures to ensure documentation that the functions of the recording and authorizing are segregated for the write-off of receivables for its Guaranty Funds.

Recommendation: The Department should establish procedures to clearly document the separation of duties for the write-off of Guaranty Fund receivables. (See Recommendation 3.)

Agency Response: “The Department will establish procedures to document the separation of duties. In addition, all referral documents will be scanned and stored on the Agency’s server for future reference.”

Health Club Guaranty Fund Payments:

Criteria: Section 21a-226 of the General Statutes limits the total compensation from the Health Club Guaranty Fund for the closing of any one health club location to $75,000.

Condition: During October 2008, the agency authorized payments to 306 customers totaling $107,233 from the Health Club Guaranty Fund due to the closing of a health club. Since the disbursements were not limited to $75,000, the agency failed to prorate the payments among the 306 customers resulting in an overall overpayment of $32,233.

Effect: The agency made an overpayment totaling $32,233 in violation of Section 21-226 of the General Statutes.

Cause: The overpayment was a mistake by the agency in failing to realize the Fund payout limitations.

Recommendation: The Department should comply with statutory limits for any guaranty fund compensation payments. (See Recommendation 4.)

Agency Response: "The Department will work to ensure that statutory limits applicable to the guarantee funds we administer will be adhered to."

Public Charities Financial Reports:

Criteria: Section 21a-190b, subsection (a), of the General Statutes requires each charitable organization soliciting funds in the State to register with the Department. The annual registration fee is $50 and the application to register includes providing an annual financial report. Under subsection (d) of the above statute, the Commissioner may, upon written request and for good cause shown, grant an extension of time not to exceed six months for the filing of the charitable organization's annual financial report.

Condition: Our review of 15 registration fee payments included five organizations receiving a six month extension for filing an annual financial report. However, we were not able to verify the requests since the manner in which they were filed made it impractical to search for any particular extension approval. It required going through every application.

During the audited period, we were informed that extension requests have always been approved by the employees working in the Public Charities Unit. The extension could be requested by phone, mail, e-mail or fax and would automatically receive a six month extension without the need to document good causes. Effective July 2009, there is a designated e-mail address for charitable organizations to submit their extension request. The Public Charities Unit has periodically deleted these e-mails due to the mailbox's storage limits.

Effect: We were unable to verify whether extensions for filing annual financial reports were properly requested and granted in a fair and consistent manner. The automatic approval of an extension request without the need to show good cause adversely affects the consumer's access to timely and relevant financial information about charities when considering donations. Also, the automatic approval of the filing request may cause the loss of late fees which are $25 a month, up to six months.

Cause: The large volume of extension requests established the practice of automatic approval without considering reasons for delays and not retaining filing extension requests.

Recommendation: The Department should comply with statutory requirements regarding the approval of requests from public charities to extend the time required to submit an annual financial report. (See Recommendation 5.)

Agency Response: "The Department notes that under a 1985 memorandum of understanding, the Public Charities Unit has been physically located at and under the direct supervision of the Attorney General's Office. However, we anticipate relocating the Public Charities Unit back to our location at 165 Capitol Avenue in the near future. Additionally, all credentials and related documents will be placed on DCP's e-license system. And we anticipate altering the business process to require documentation of good cause before an extension of time to submit an annual financial report is granted."

Attendance and Leave Records:

Criteria: 1. Leave requests- The Department of Consumer Protection Handbook for Supervisors states that employees must request time off in advance from their supervisor prior to taking the leave. A copy of the approved form is to be submitted with the biweekly timesheet.

2. Timesheets- Timesheets should be signed by the employee and supervisor at the end of each pay period to ensure that hours included are accurate and reflect actual hours worked.

3. Compensatory time- Guidelines for the earning and use of compensatory time are set by collective bargaining agreements and the DAS Manager's Guide. Such guidelines include supervisory approval in advance to earn compensatory time and the periodic expiration of unused compensatory time balances.

4. Documentation at termination- Sound business practice dictates an employee's personnel file should be complete including any correspondence concerning the employee's termination. Supervisors are expected to complete a DAS exit interview form with the employee on their last day of work. Otherwise, human resources will complete the form.

5. Medical certificates- DAS requires (1) the submission of certain documents for those taking sick leave under the Family Medical Leave Act (FMLA) and (2) the completion of the Workers' Compensation claim reporting packet which includes a physician's worker status report to document the facts of a reported claim.

Conditions: 1.Leave requests- Requests to use leave time were either not on file or were signed late for four out of 17 employees in our sample.

2. Timesheet issues- Our sample of 20 timesheets showed three instances where either the employee or the supervisor signed the timesheet early. We also noted one instance where the timesheet was not dated when signed by the supervisor and one instance where the supervisor signed on the employee’s behalf.

3. Compensatory time-

a) Compensatory time earned for seven out of ten employees reviewed was not preapproved.

b) Compensatory time was not used or monitored in accordance with collective bargaining unit contract guidelines for six out of ten employees. Also, there were cases where the use of compensatory time was not pre-approved.

c) Documentation to support the hours used for two of ten employees was not on file; specifically the lack of request forms for taking leave in advance.

4. Documents at termination- Exit interview forms were not on file for six out of ten employees reviewed. In addition, there were three that had no documentation expressing the employee’s intent to retire.

5. Medical certificates- For ten employees selected for our review, there was insufficient documentation on file to support six employees leave, five involved FMLA sick leave and the other one involved workers’ compensation leave.

Effect: The above conditions indicate a weakness in controls that could result in employees being incorrectly paid based on inaccurate information that has not been properly reviewed or monitored.

Cause: There appears to have been a general lack of oversight over payroll to ensure complete documentation over transactions. Regarding compensatory time, Core-CT does not clear balances that should have expired. Therefore, there was a lack of monitoring by the agency to ensure these balances were properly taken.

Recommendation: Documentation of attendance and leave records for the Department’s employees needs improvement and compensatory time balances should be monitored to ensure balances are properly used and lapsed. (See

Recommendation 6.)

Agency Response: "The agency will continue to work to ensure that supervisors will approve in advance all requests for leave and shall retain a copy of each leave request. In the event of unexpected or emergency leave situations where advance approval may not be feasible, the leave request shall be completed immediately upon the employee's return to work with reason noted for the after-the-fact approval and also retained on file. Notice to agency supervisors shall also mandate that no timesheet shall be signed early or on behalf of the employee unless there exists a legitimate or emergency situation where such reason is documented by the supervisor and retained on file.

DAS/SmART Human Resources has reissued to all agency staff the directive of 2007 regarding the requirement that all compensatory time and overtime must be pre-approved or the employee shall not be credited or paid for the extra hours claimed. DAS/SmART Human Resources and Payroll staff will enforce and monitor compensatory and overtime processes, including the running of monthly Core-CT queries or reports on compensatory or overtime crediting and usage, in accordance with collective bargaining unit contract guidelines.

Exit interview form completion for employees leaving the agency shall be mandated in all instances and conducted by the employee's immediate supervisor or manager to ensure state issued ID and equipment recovery. The employee will be directed to DAS/SmART Human Resources for full completion of the exit interview process and form and the form shall be maintained by DAS/SmART Human Resources in the employee's official personnel file. In the event the employee fails to attend the DAS/SmART exit interview, DAS/SmART will notify the employee's manager and, if necessary, mail the exit interview form and related exit interview data to the employee at his/her last known address.

During the audit period the agency had turnover of three separate DAS/SmART Human Resources managers. In the changeover some medical/FMLA data may have been inadvertently misfiled or misplaced. DAS/SmART has recently established a centralized FMLA and Retirement processing unit, under an assigned supervisor, to make more uniform and better monitor these processes which should remedy this condition regardless of DAS/SmART internal turnover or reassignment."

Other Matters- Miscalculation of a Termination Payment:

Criteria: Section 5-165a of the General Statutes states "If a member dies prior to retirement but has completed 25 years of State service, the spouse shall receive a lifetime income in an amount equal to 50 percent of the average retirement income the employee would have been entitled to had he retired on the day he died".

Condition: At the time of his death during December 2008, a Department employee was just short of being eligible for retirement. The employee had accumulated 24 years, 10 months and 24 days of State service. His accumulated sick and vacation leave balances were 109 and 96 hours, respectively. In order to qualify the employee's spouse for retirement, a DAS Human Resources employee retroactively changed prior days initially charged as vacation leave to sick leave. The total inappropriately added to the vacation balance was 127 hours or 15 days. The DAS employee also added one holiday and one month's vacation accrual of vacation time that the deceased employee had not originally earned.

We additionally found that a payment for 40 hours of vacation was made for the pay period ending January 15, 2009 in the amount of $2,011. The payment was at the instruction of the same DAS Human Resource employee, indicating it was a payment for an error in the decedent's vacation balance. We could not find any evidence to support that the payment was correct.

Effect: Attendance records were altered to allow a deceased State employee's spouse to receive retirement benefits. In addition, the decedent's estate was overpaid $7,017; $5,006 for accrued vacation changed from sick time and an additional unsupported payment of $2,011 during January 2009 for vacation time.

Cause: A DAS Human Resources employee decided to alter the attendance records to help a decedent's spouse receive retirement benefits that the decedent was ineligible to receive.

Conclusion: Since this matter appears to be solely the result of actions by a DAS employee, no recommendation is presented for the Department. However, we have reported this matter to the State Comptroller's Retirement Division for further action.

Agency Response: "The Department of Administrative Services responds as follows:

The summary above does not accurately reflect the conditions, effects or cause of the events that transpired. At the time of the individual's death, there was a question over how much credited service he had. Under the State Employees Retirement System (SERS), unused vacation time must be included when calculating an employee's credited service; however unused sick leave is not counted.

When calculating the employee's credited service, the DAS Human Resources employee learned that the decedent had a pattern and practice of using vacation and personal leave codes instead of the sick leave codes he should have used. Believing that the decedent's lack of understanding about the proper codes to use should not operate to deprive the decedent's estate of the pension and benefits he had earned, the DAS Human Resources employee changed some of the vacation days to sick days. In so doing, the DAS employee admittedly failed to follow the appropriate procedures and DAS has taken appropriate disciplinary measures to address this procedural lapse and to prevent similar lapses in the future.

Notwithstanding this procedural lapse, the fact remains that when the decedent's time records are corrected to accurately reflect the reasons for his absences, the decedent had the required 25 years of credited service. [We have provided the Auditors with a list of 19 dates, with supporting documentation,] demonstrating that the decedent mistakenly used vacation or personal leave codes when he should have used codes associated with his sick leave accruals (i.e., sick, sick family, sick funeral, and parental leave). When these codes are corrected, the decedent's service record exceeds the 25 year minimum.

On a related matter, the assertion that decedent's estate was overpaid approximately $7,000 for accrued vacation time is incorrect. This payment for the decedent's unused accrued vacation time was mandated by SERS' rules regarding the inclusion of vacation and holiday accruals for credited service and the state personnel act's requirement that employee's receive a payout for unused vacation time upon termination of employment. Because of the time frame of the decedent's passing, adding his unused vacation accruals to his actual service meant that the decedent's estate was credited with additional monthly accruals for December 2008 and January 2009 as well as with the extra week of vacation accruals credited to every employee with 10 or more years of service as of the first of January of each year."

Auditors Concluding Comments:

At the time of our review, DAS did not have any documentation to support retroactively changing 11 days from vacation time taken during June through November 2008 to sick time. This change resulted in the deceased employee reaching 25 years of service. The subsequent review by DAS, which claims vacation leave charges for 19 days over a period from 1989 through 2008 could be retroactively changed to sick leave charges resulting in more credited service time, is irrelevant to our finding. DAS initially submitted a retirement benefits application claiming 25 years of service without sufficient support.

We have brought this matter to the attention of the State Comptroller's Retirement Services Division with supporting documentation for their consideration and review.

RECOMMENDATIONS

Our prior report on the Department of Consumer Protection covered the fiscal years ended June 30, 2007 and 2008, and contained four recommendations. The following is a summary of those recommendations and the action taken by the Department of Consumer Protection.

Status of Prior Audit Recommendations:

- The Department should comply with Section 4-32 and deposit receipts in a timely manner. This recommendation is being repeated. (See Recommendation 1.)

- The Department needs to improve its procedures concerning the recording and invoicing of all accounts receivables. This recommendation has been resolved.

- Equipment and software inventory procedures should be strengthened to provide accurate information and to comply with accounting and reporting requirements established in the State's Property Control Manual. This recommendation has been resolved.

- The Department should ensure that timesheets and leave forms are properly completed and approved in a timely manner. This recommendation has been repeated in a restated form to include other issues. (See Recommendation 6.)

Current Audit Recommendations:

1. **The Department should comply with Section 4-32 and deposit receipts in a timely manner.**

   Comment:

   We noted Lemon Law receipts were not made on a timely basis and documentation of receipts for licenses was not kept in accordance with the State's record retention schedule.

2. **Licensing receipts should be recorded in the correct general ledger accounts with the correct amounts.**

   Comment:

   Daily receipts reports issued by the Department's E-licensing system for tracking licenses issued or renewed did not consistently agree with actual cash receipts recorded by Core-CT.

3. **The Department should establish procedures to clearly document the separation of duties for the write-off of Guaranty Fund receivables.**

   Comment:

   Our review showed a lack of procedures to document the segregation of duties over write-offs of Guaranty Fund receivables.

4. **The Department should comply with statutory limits for guaranty fund compensation payments.**

   Comment:

   The Department exceeded the $75,000 compensation limit per one health club location, according to Section 21-226 of the General Statutes, by paying 306 customers a total of $107,233 during October 2008.

5. **The Department should comply with statutory requirements regarding the approval of requests from public charities to extend the time required to submit an annual financial report.**

   Comment:

   The Department was regularly granting public charities a six month extension to file an annual financial report without requiring documentation of good cause.

6. **Documentation of attendance and leave records for the Department's employees needs improvement and compensatory time balances should be monitored to ensure balances are properly used and lapsed.**

   Comment:

   Our review found insufficient documentation concerning leave requests, timesheets, medical certification and documentation for terminations. Also, compensatory time balances were not consistently monitored to ensure time was properly used and/or lapsed.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes we have audited the books and accounts of the Department of Consumer Protection for the fiscal years ended June 30, 2008 and 2009. This audit was primarily limited to performing tests of the Agency's compliance with certain provisions of laws, regulations, contracts and grant agreements and to understanding and evaluating the effectiveness of the Agency's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grant agreements applicable to the Agency are complied with, (2) the financial transactions of the Agency are properly initiated, authorized, recorded, processed and reported on consistent with management's authorization, and (3) the assets of the Agency are safeguarded against loss or unauthorized use. The financial statement audits of the Department of Consumer Protection for the fiscal years ended June 30, 2008 and 2009, are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Department of Consumer Protection complied in all material or significant respects with the provisions of certain laws, regulations, contracts and grant agreements and to obtain a sufficient understanding of the internal control to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

Internal Control over Financial Operations, Safeguarding of Assets and Compliance:

In planning and performing our audit, we considered the Department of Consumer Protection’s internal control over its financial operations, safeguarding of assets, and compliance with requirements as a basis for designing our auditing procedures for the purpose of evaluating the Agency’s financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grant agreements, not for the purpose of providing assurance on the effectiveness of the Agency’s internal control over those control objectives.

Our consideration of internal control over financial operations, safeguarding of assets, and compliance requirements for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial operations, safeguarding of assets and compliance with requirements that might be significant deficiencies or material weaknesses. However as discussed below, we identified certain deficiencies in internal control over financial operations, safeguarding of assets, and compliance with requirements that we consider to be significant deficiencies.

A *control deficiency* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect on a timely basis unauthorized, illegal, or irregular transactions or the breakdown in the safekeeping of any asset or resource. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the Agency’s ability to properly initiate, authorize, record, process, or report financial data reliably, consistent with management’s direction, safeguard assets, and/or comply with certain provisions of laws, regulations, contracts, and grant agreements such that there is more than a remote likelihood that a financial misstatement, unsafe treatment of assets, or noncompliance with laws, regulations, contracts, and grant agreements that is more than inconsequential will not be prevented or detected by the Agency's internal control. We consider the following deficiencies, described in detail in the accompanying "Condition of Records" and "Recommendations" sections of this report, to be significant deficiencies in internal control over financial operations, safeguarding of assets and compliance with requirements: Recommendation 2 – E-Licensing Receipts and Recommendation 3 – Guaranty Fund Write-off of Receivables.

A *material weakness* is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that noncompliance with certain provisions of laws, regulations, contracts, and grant agreements or the requirements to safeguard assets that would be material in relation to the Agency's financial operations, noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions, and/or material financial misstatements by the Agency being audited will not be prevented or detected by the Agency's internal control.

Our consideration of the internal control over the Agency's financial operations, safeguarding of assets, and compliance with requirements, was for the limited purpose described in the first paragraph of this section and would not necessarily disclose all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe that neither of the significant deficiencies described above are material weaknesses.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Department of Consumer Protection complied with laws, regulations, contracts and grant agreements, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the Agency's financial operations, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we noted certain matters which we reported to Agency management in the accompanying "Condition of Records" and "Recommendations" sections of this report.

The Department of Consumer Protection's responses to the findings identified in our audit are described in the accompanying "Condition of Records" section of this report. We did not audit the Agency response and, accordingly, we express no opinion on it.

This report is intended for the information and use of Agency management, the Governor, the State Comptroller, the Appropriations Committee of the General Assembly and the Legislative

Committee on Program Review and Investigations. However, this report is a matter of public record and its distribution is not limited.

CONCLUSION

We wish to express our appreciation for the cooperation and courtesies extended to our representatives by the officials and staff of the Department of Consumer Protection during the course of our examination.

Donald R. Purchla
Principal Auditor

Approved:

Kevin P. Johnston
Auditor of Public Accounts

Robert G. Jaekle
Auditor of Public Accounts

October 25, 2010
State Capitol
Hartford, Connecticut