

STATE OF CONNECTICUT



*AUDITORS' REPORT
DEPARTMENT OF CONSUMER PROTECTION
FISCAL YEARS ENDED JUNE 30, 2018, 2019 AND 2020*

AUDITORS OF PUBLIC ACCOUNTS
JOHN C. GERAGOSIAN ❖ CLARK J. CHAPIN

Table of Contents

EXECUTIVE SUMMARY	i
AUDITORS' REPORT.....	1
COMMENTS	2
FOREWORD	2
Boards and Commissions	3
RÉSUMÉ OF OPERATIONS	4
General Fund	4
Special Revenue Funds.....	5
Fiduciary Funds	5
STATE AUDITORS' FINDINGS AND RECOMMENDATIONS.....	9
Inaccurate Accounts Receivable Reported	9
Accounts Receivable Not Created.....	10
Lack of Review Procedure and Inadequate Information in Settlement Agreement and Final Decision.....	11
Failure to Maintain Accurate Dealer List – Lemon Law/New Automobile Warranty....	14
Software Inventory Deficiencies	16
RECOMMENDATIONS	18
Status of Prior Audit Recommendations:	18
Current Audit Recommendations:.....	19
ACKNOWLEDGMENTS	21

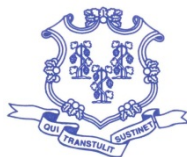
October 14, 2021

EXECUTIVE SUMMARY

In accordance with the provisions of Section 2-90 of the Connecticut General Statutes, we have audited certain operations of the Department of Consumer Protection (DCP) for the fiscal years ended June 30, 2018, 2019 and 2020. Our audit identified internal control deficiencies; instances of noncompliance with laws, regulations, and policies, and a need for improvement in practices and procedures that warrant the attention of management. The significant findings and recommendations are presented below:

<p><u>Page 9</u></p>	<p>The department’s records included a significant amount of accounts receivables with no collections since 2017. DCP did not promptly write off uncollectible receivables. The Department of Consumer Protection should perform a review of all outstanding accounts receivables and should consider writing-off those without recent collection activity. The department should seek guidance from the Office of the State Comptroller or the Office of Policy and Management regarding when receivable balances should be considered uncollectible and written off. (Recommendation 1.)</p>
<p><u>Page 10</u></p>	<p>The department did not record any accounts receivables for unpaid penalties and was unable to provide a list of unpaid penalties in the Consumer Protection Enforcement Account. The Department of Consumer Protection should establish a process for the Legal Division to promptly report imposed penalties to the Business Office to process the accounts receivables. Furthermore, the department should review previous final decisions to identify and establish any outstanding penalties and to initiate the collections process. (Recommendation 2.)</p>
<p><u>Page 11</u></p>	<p>In settlement agreement and final decision, the department does not provide respondents with accurate penalty payment instruction and applicable statutes or deadline for Superior Court appeal. The department does not review all agreements prior to offering settlement to respondents. DCP should modify language in its settlement agreements and final decisions to accurately specify which account to direct payments, and should also clearly communicate statutory requirements and deadlines for Superior Court appeal. Furthermore, the department should establish written procedures for processing settlements and documenting reviews prior to offering settlements to respondents. (Recommendation 3.)</p>
<p><u>Page 14</u></p>	<p>The department did not effectively administer the New Automobile Warranties (NAW) Program and did not collect approximately \$22,000 in annual NAW surcharge payments. The Department of Consumer Protection should improve procedures to periodically update the new vehicle dealer list, and to identify and follow up with dealers that have not paid surcharges under the New Automobile Warranties Program. Furthermore, the department should verify dealers’ business status when receiving closeout notifications prior to changing them to inactive in the department’s database. (Recommendation 4.)</p>

STATE OF CONNECTICUT



AUDITORS OF PUBLIC ACCOUNTS

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210 Capitol Avenue
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CLARK J. CHAPIN

October 14, 2021

AUDITORS' REPORT DEPARTMENT OF CONSUMER PROTECTION FISCAL YEARS ENDED JUNE 30, 2018, 2019 AND 2020

We have audited certain operations of the Department of Consumer Protection (DCP) in fulfillment of our duties under Section 2-90 of the Connecticut General Statutes. The scope of our audit included, but was not necessarily limited to, the fiscal years ended June 30, 2018, 2019, and 2020. The Department of Administrative Services (DAS) provided accounting, payroll, and personnel services for DCP during the audited period. The scope of our audit did not extend to the evaluation of the relevant controls at that agency. The objectives of our audit were to:

1. Evaluate the department's internal controls over significant management and financial functions;
2. Evaluate the department's compliance with policies and procedures internal to the department or promulgated by other state agencies, as well as certain legal provisions; and
3. Evaluate the effectiveness, economy, and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, minutes of meetings, and other pertinent documents; interviewing various personnel of the department; and testing selected transactions. Our testing was not designed to project to a population unless specifically stated. We obtained an understanding of internal controls that we deemed significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contracts, grant agreements, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our

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

The accompanying Résumé of Operations is presented for informational purposes. This information was obtained from various available sources including, but not limited to, the department's management and the state's information systems, and was not subjected to the procedures applied in our audit of the department. For the areas audited, we:

1. Identified deficiencies in internal controls;
2. Identified apparent non-compliance with laws, regulations, contracts and grant agreements, policies, and procedures; and
3. Identified a need for improvement in management practices and procedures that we deemed to be reportable.

The State Auditors' Findings and Recommendations section of this report presents findings arising from our audit of the Department of Consumer Protection.

COMMENTS

FOREWORD

The Department of Consumer Protection is a regulatory agency that operates under the provisions of Chapters 98, 226, 416, and 545 of the Connecticut General Statutes to protect citizens from physical injury and financial loss that may occur as the result of unsafe or fraudulent products and services marketed in Connecticut. In addition, the department issues licenses, registrations, and permits and provides oversight for more than 200 types of jobs and businesses, including home improvement contractors, real estate agents, pharmacies, and professional trades. The department also oversees the production, distribution and sale of all prescription medication and alcoholic beverages in the state. DCP is responsible for enforcing numerous significant consumer protection laws, including but not limited to the Connecticut Unfair Trade Practices Act (CUTPA); Liquor Control Act; Connecticut Pure Food, Drug & Cosmetic Act; Connecticut Weights & Measures Act; and Connecticut State Child Protection Act.

The Department of Administrative Services' Business Office and Small Agency Resource Team (SmART) performs the department's personnel, payroll, affirmative action, and most of its business functions. The department's staff is responsible for receipt collection and processing, accounts receivables, and guaranty fund functions.

Michelle H. Seagull was named commissioner on May 1, 2017 and continues to serve in that capacity.

Significant Legislation

Notable legislative changes, which took effect during the audited period, are presented below:

- **Public Act 17-75 (Section 5)**, effective January 1, 2018, eliminated Department of Consumer Protection occupational licenses, registrations or certificates issued to swimming pool assemblers, shorthand reporters, athlete agents, itinerant vendors, and liquor wholesaler’s salesmen.
- **Public Act 17-231**, effective January 1, 2018, generally transferred the Department of Consumer Protection’s charitable gaming investigation, oversight, and permitting functions to the municipality where the games are conducted.
- **Public Act 19-24**, effective January 1, 2020, streamlined the permitting process related to the sale of alcoholic liquor and modernized the Liquor Control Act.

Boards and Commissions

The Department of Consumer Protection administers 19 professional boards, councils and commissions. Each (except the Liquor Control Commission, the Medical Marijuana Board of Physicians and the Distillate Advisory Board) is responsible for reviewing, establishing and maintaining applicant educational training and examination standards which applicants must demonstrate before DCP can issue a license. A listing of these boards and commissions, and the statutory references are presented below:

Name	Statutory Reference
Liquor Control Commission	Section 30-2
Architectural Licensing Board	Section 20-289
State of Board of Accountancy	Section 20-280
State Board of Landscape Architects	Section 20-368
Electrical Work Examining Board	Section 20-331(b)
State Board of Accountancy	Section 20-280
Elevator Installation, Repair, and Maintenance Work Examining Board	Section 20-331(e)
Fire Protection Sprinkler System Board	Section 20-331(f)
Automotive Glass Work and Flat Glass Work Examining Board	Section 20-331(g)
Distillate Advisory Board	Section 16a-21b(e)
Heating, Piping, Cooling, and Sheet Metal Work Examining Board	Section 20-331(c)
Plumbing and Piping Work Examining Board	Section 20-331(d)
Commission of Pharmacy	Section 20-572
State Board of Examiners for Professional Engineers and Land Surveyors	Section 20-300
Connecticut Real Estate Commission	Section 20-311a
Connecticut Real Estate Appraisal Commission	Section 20-502
Mobile Manufactured Home Advisory Council	Section 21-84a
Home Inspection Licensing Board	Section 20-490a
Medical Marijuana Program Board of Physicians	Section 21a-408

RÉSUMÉ OF OPERATIONS

General Fund

General Fund receipts were comprised primarily of payments for professional services, skilled trades and certain business licenses. In addition, the department received liquor permit and palliative marijuana program fees, and horse racing taxes. A summary of General Fund receipts for the fiscal years examined is presented below:

Receipts:	Fiscal Year Ended June 30,		
	2018	2019	2020
Licenses	\$ 30,977,631	\$ 31,524,919	\$ 32,418,578
Permits	9,425,853	9,636,353	8,006,249
Fees	5,749,072	6,149,288	5,729,748
Taxes on Horse Racing (OTB)	3,273,281	3,085,897	2,491,055
Medical Marijuana	3,550,705	4,450,105	5,238,842
Fines, Penalties, Forfeitures	1,289,491	463,123	575,652
Keno	(8,761,041)	(9,003,537)	(10,100,692)
All Other Receipts	(226,490)	(406,347)	(419,585)
Total Receipts	\$ 45,278,502	\$ 45,899,801	\$ 43,939,847

DCP distributes Keno revenue to the Mashantucket Pequot and Mohegan tribes in accordance with Section 12-806c of the General Statutes.

The reduction in General Fund receipts in fiscal year 2019-2020 was primarily due to a decrease in revenue from permits, fees and horse racing off-track betting taxes for the last quarter of fiscal year 2019-2020. This decrease was attributable to the shut-down of non-essential businesses in Connecticut following Governor Ned Lamont's March 10, 2020 declaration of a public health and civil preparedness emergency for the State of Connecticut.

A summary of General Fund expenditures for the fiscal years examined is presented below:

Expenditures:	Fiscal Year Ended June 30,		
	2018	2019	2020
Personal Services and Employee Benefits:	\$ 13,698,819	\$ 13,720,346	\$ 14,022,144
Purchased and Contracted Services:			
Postage	110,599	102,962	116,838
Motor Vehicle Costs	404,229	409,793	320,842
Information Technology	226,547	250,450	166,031
Purchased Commodities	56,189	48,297	39,111
Indirect Overhead-Other Projects	(1,506,313)	(1,838,528)	(1,545,291)
Total Purchased and Contracted Services	(408,844)	(714,170)	(558,761)
Total Expenditures	\$ 13,289,975	\$ 13,006,176	\$ 13,463,383

Special Revenue Funds

Federal and Other Restricted Accounts and Special Transportation Funds

Federal and Other Restricted Accounts receipts totaled \$8,517,846, \$9,722,472, and \$8,329,610 for the fiscal years ended June 30, 2018, 2019, and 2020, respectively. Receipts consisted primarily of non-federal restricted revenue, such as fines collected and deposited to the Consumer Protection Enforcement Account, recovery of indirect and fringe benefit costs in the operation of regulatory functions, and transfers of available surpluses from the New Home Construction and Home Improvement Guaranty Funds.

DCP also collected and deposited revenues to the Special Transportation Fund totaling \$1,742,261, \$1,819,201, and \$1,560,708 for the fiscal years ended June 30, 2018, 2019, and 2020, respectively. These revenues consisted of registration fees for motor fuel dispensers and weighing or measuring devices collected pursuant to Section 43-3 of the General Statutes.

A summary of Federal and Other Restricted Accounts expenditures for the fiscal years examined is presented below:

Expenditures:	Fiscal Year Ended June 30,		
	2018	2019	2020
Personal Services and Employee Benefits:			
Salaries and Wages	\$ 2,924,349	\$ 3,098,875	\$ 3,079,773
Employee Benefits	2,579,877	2,952,301	2,801,425
All Other	41,726	61,444	39,442
Total Personal Services and Employee Benefits	5,545,952	6,112,620	5,920,640
Purchased and Contracted Services:			
Information Technology	30,716	193,224	429,920
Indirect Overhead-Federal and Other Projects	1,562,750	1,883,231	1,648,061
All Other	568,214	275,954	203,726
Total Purchased and Contracted Services	2,161,680	2,352,409	2,281,707
Total Expenditures	\$ 7,707,632	\$ 8,465,029	\$ 8,202,347

Federal and Other Restricted Accounts are used primarily to record personal services and fringe benefit costs of employees working on specific projects within the department.

In addition to the above expenditures, DCP made capital equipment purchases of \$34,250 and \$77,061 from the Capital Equipment Purchases Fund during the fiscal years ended June 30, 2019 and 2020, respectively.

Fiduciary Funds

Betting Taxes Fund

DCP used this fund to account for the deposit of taxes and other monies from pari-mutuel licensees such as off-track betting facilities. A summary of the fund's activity for the fiscal years examined is presented below:

	Fiscal Year Ended June 30,		
	2018	2019	2020
Beginning Balance	\$ 377,296	\$ 463,148	\$ 406,015
Receipts:			
Betting Taxes	5,681,971	5,197,347	3,785,518
Total Available Cash	6,059,267	5,660,495	4,191,533
Disbursements:			
Payments to Towns	2,322,839	2,168,583	1,567,474
Transfers to the General Fund	3,273,280	3,085,897	2,491,055
Total Transfers and Expenditures	5,596,119	5,254,480	4,058,529
Ending Balance	\$ 463,148	\$ 406,015	\$ 133,004

Funds Awaiting Distribution Fund

DCP used this fund to hold monies until the determination of their final disposition. The department used three subaccounts within this fund for various purposes. A brief description of the activity and a schedule of financial transactions for the audited period follows:

1. ***Real Estate Licenses*** – Section 10a-125 of the General Statutes requires 8.75% of each real estate broker and salesperson licenses and fees to be paid to the University of Connecticut, Center for Real Estate and Urban Economic Studies. The fees are deposited directly to the General Fund and are periodically transferred to a pending receipts account which, in turn, is transferred to the university.
2. ***Real Estate Appraiser National Registration*** – This account is used to collect annual registry fees from real estate appraisers to pay for federal registration and certification, as required by Section 20-511(c) of the General Statutes.
3. ***All Other*** – This account is used for all other transactions pending resolution, such as closing out sales, license fees, fines, penalties, and settlements.

	Total	Real Estate Licenses	Federal Appraiser Registration	All Other
Cash Balance – July 1, 2017	\$ 360,666	\$ 224,104	\$ 22,536	\$ 114,026
Receipts:	1,226,764	659,566	50,030	517,168
Disbursements				
University of Connecticut	(883,670)	(883,670)	-	-
All Others:	(536,262)	-	(48,840)	(487,422)
Cash Balance – July 1, 2018	\$ 167,498	\$ -	\$ 23,726	\$ 143,772
Receipts	1,328,341	700,290	51,199	576,852
Disbursements				
University of Connecticut	(700,290)	(700,290)	-	-
All Others	(642,532)	-	(49,920)	(592,612)
Cash Balance – July 1, 2019	\$ 153,017	\$ -	\$ 25,005	\$ 128,012
Receipts	1,251,227	638,620	112,465	500,142
Disbursements				

University of Connecticut	(638,620)	(638,620)	-	-
All Others	(488,986)	-	(48,880)	(440,106)
Cash Balance – July 1, 2020	\$ 276,638	\$ -	\$ 88,590	\$ 188,048

Guaranty Funds

The department used five guaranty funds 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:

	Health Club	Real Estate	Home Improvement	Itinerant Vendor	New Home Construction
Balance - July 1, 2017	\$ 151,000	\$ 115,064	\$ 227,243	\$ 46,000	\$ 324,305
Receipts	145,600	116,758	3,086,520	200	1,104,871
Interest	2,206	2,211	6,995	-	7,927
Restitutions	(94,823)	-	(999,628)	-	(149,874)
Transfer to Enforcement Account	-	-	(400,000)	-	(300,000)
Transfer to General Fund	-	-	(1,249,550)	-	(237,229)
Balance – July 1, 2018	\$ 203,983	\$ 234,033	\$ 671,580	\$ 46,200	\$ 750,000
Receipts	166,900	115,758	3,095,431	-	198,257
Interest	6,107	5,163	15,946	-	15,683
Restitutions	(15,655)	-	(1,235,986)	-	(180,000)
Transfer to Enforcement Account	-	-	(400,000)	-	(33,940)
Transfer to General Fund	(16,870)	-	(1,410,312)	-	-
Balance – July 1, 2019	\$ 344,465	\$ 354,954	\$ 736,659	\$ 46,200	\$ 750,000
Receipts	149,700	111,999	3,070,839	-	1,125,047
Interest	7,055	7,180	16,260	-	15,804
Restitutions	-	-	(1,059,468)	-	(147,956)
Transfer to Enforcement Account	-	-	(400,000)	-	(300,000)
Transfer to General Fund	(151,220)	-	(1,668,895)	-	(692,895)
Balance – July 1, 2020	\$ 350,000	\$ 474,133	\$ 675,395	\$ 46,200	\$ 750,000

Health Club Guaranty Fund

This trust fund operates under the provisions of Section 21a-226 of the General Statutes and is 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 \$500 or \$100, depending on the nature of the facility. The authorized balance of this fund is \$350,000, and any excess receipts or investment income must be credited to the General Fund.

Real Estate Guaranty Fund

This trust fund operates under the provisions of Sections 20-324a through 20-324j of the General Statutes and is used to compensate, up to \$25,000, any person aggrieved by actions of registered real estate brokers and salespersons. Receipts consisted of a \$20 fee paid by real estate

brokers and salespersons when first registering and \$3 annual renewal fees. The authorized balance of this fund is \$500,000, and any excess receipts or investment income must be transferred to the General Fund.

Home Improvement Guaranty Fund

This trust fund operates under the provisions of Section 20-432 of the General Statutes and is used to reimburse homeowners up to \$15,000 per contract for losses or damages 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. Additional revenue included investment earnings and contractors' restitution repayments ordered by the department. The authorized balance of this fund is \$750,000. 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. Any amounts over these thresholds are transferred to the General Fund.

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 was defined as one who engaged in a temporary or transient business in this state, either in one locality or traveling from place to place. Receipts consisted of a \$200 annual fee paid by itinerant vendors. The authorized balance of this fund was \$50,000, and any receipts and investment income earned over this balance were required to be credited to the General Fund. Public Act 17-75 (Section 5) repealed sections 21-27 to 21-35 of the General Statutes and eliminated registration requirement to itinerant vendors, effective January 1, 2018. As a result, the department has not received any fees, and will deposit the ending balance of \$46,200 to an appropriate fund in accordance with OPM guidance.

New Home Construction Guaranty Fund

This trust fund operates under the provisions of Section 20-417i of the General Statutes and is 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 \$480 biennial fee paid by new home construction contractors, and investment earnings. The authorized balance of this fund is \$750,000. Any amounts in excess of this limit 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.

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

Our examination of the records of the Department of Consumer Protection disclosed the following five recommendations, of which three have been repeated from the previous audit:

Inaccurate Accounts Receivable Reported

Background: The Department of Consumer Protection (DCP) makes payments to consumers from the guaranty funds it administers to settle complaints against contractors, real estate agents and health clubs. The department invoices the contractor, agent or club and establishes a corresponding accounts receivable. Accounts receivables are also set up for penalties imposed by boards or commissions within DCP.

The Collection Services Division of the Department of Administrative Services (DAS) assists state agencies in the collection of debts owed to the state. DCP referred delinquent accounts receivable to DAS.

Criteria: The Office of the State Comptroller (OSC) requires state agencies to maintain accurate and complete accounts receivable records that indicate how long the debt has been outstanding. Furthermore, OSC requires all state agencies to report accurate accounts receivable balances and uncollectible account estimates at the end of each fiscal year on the Generally Accepted Accounting Principles (GAAP) Reporting Form - Receivables.

Section 3-7 of the General Statutes provides that the agency head can authorize the write-off of receivables under \$1,000. The agency must request approval from the Office of Policy and Management (OPM) to write off receivables over \$1,000.

Condition: Since last reported, DCP began the process of writing off accounts receivables. However, as of February 1, 2021, DCP records still included 594 accounts receivables, totaling \$21,949,948, with no collections since July 1, 2017.

Context: DCP reported 1,312 GAAP receivables totaling \$39,230,744, with \$37,367,671 estimated as uncollectible for the fiscal year ended June 30, 2020.

Between June 30, 2020 and February 1, 2021, DCP obtained OPM approval to write off 42 receivables totaling \$599,580. An additional 290 receivables totaling \$11,221,742, were in the process of acquiring OPM approval.

- Effect:* DCP overstated GAAP receivables by \$21,949,948 for the fiscal year ended June 30, 2020.
- Cause:* DCP did not perform a comprehensive review of all outstanding accounts receivables without recent collections.
- Prior Audit Finding:* This finding was previously reported in the last audit report covering the fiscal years ended June 30, 2015 to 2017.
- Recommendation:* The Department of Consumer Protection should perform a review of all outstanding accounts receivables and should consider writing off those without recent collections. The department should seek guidance from the Office of the State Comptroller or the Office of Policy and Management regarding when receivable balances should be considered uncollectible and written off. (See Recommendation 1.)
- Agency Response:* “We agree in part with the finding that DCP should perform a review of all outstanding receivables and request write-offs for those without recent collection activity and has begun this process. Although this finding was reported in the audit covering the fiscal period for the years 2015-2017, those findings were not shared with DCP until April of 2020. As a result, DCP’s corrective action was not started during this audit period.”

Accounts Receivables Not Established

- Background:* The Department of Consumer Protection establishes accounts receivables for penalties imposed by boards or commissions under its authority.
- Criteria:* The Office of the State Comptroller (OSC) requires state agencies to maintain accurate and complete accounts receivable records that indicate how long the debt has been outstanding. Furthermore, OSC requires all state agencies to report accurate accounts receivable balances and uncollectible account estimates at the end of each fiscal year on the Generally Accepted Accounting Principles (GAAP) Reporting Form - Receivables.
- Section 4-183 (f) of the General Statutes explains that the filing of an appeal to the Superior Court shall not stay enforcement of an agency decision.
- Condition:* DCP did not record any accounts receivables for unpaid penalties in the Consumer Protection Enforcement Account, from June 30, 2017 through February 1, 2021. We identified two unpaid penalties totaling

\$51,600 for which DCP did not establish receivables. The department's rationale in one of these instances was that an appeal had been filed.

DCP was unable to provide a list of unpaid penalties for the Consumer Protection Enforcement Account.

Context: DCP boards and commissions issued 70, 60, and 138 final decisions during fiscal years 2018, 2019, and 2020, respectively.

Effect: Statewide financial statement balances are understated when accounts receivables are not established for amounts owed to the state. Furthermore, there is increased risk that amounts due to the state are not collected resulting in potential lost revenue.

Cause: The Legal Division does not report imposed penalties to the Business Office to process the accounts receivables.

Prior Audit Finding: This finding has not been previously reported.

Recommendation: The Department of Consumer Protection should establish a process for the Legal Division to promptly report imposed penalties to the Business Office to process the accounts receivables. Furthermore, the department should review previous final decisions to identify and establish any outstanding penalties and to initiate the collections process. (See Recommendation 2.)

Agency Response: "We agree in part. Since the findings from the last audit were shared with DCP in April 2020, DCP has established a process where the Legal Division enters final decisions into the e-license system to track fines owed. Since April 2020 DCP has set up an automatic system through e-license that generates collection notices to respondents with unpaid fines. This eliminates the manual process formerly conducted by the Business Office. Collection notices and dunning letters are sent out pursuant to OSC requirements. After appropriate collection efforts are completed, any unpaid fines will be sent by the Business Office for to DAS for collection."

Inadequate Guidance and Review of Settlements Agreements and Final Decisions

Background: Boards and commissions within the Department of Consumer Protection hold hearings and impose penalties in a final decision, if applicable. Prior to a board or commission hearing, the DCP Legal Division may offer a settlement to respondents thereby reducing the potential penalty in exchange for an agreement of wrongdoing. DCP

provides final decisions or settlement agreements to respondents and specifies how respondents should make penalty payments to DCP.

Criteria:

The State Accounting Manual identifies funds, accounts, and Special Identification (SID) codes of all public accounts used by the State of Connecticut.

Section 4-183 of the General Statutes allows final decisions to be appealed to the Superior Court within 45 days of mailing or personal delivery, denial of the petition for reconsideration, or issuance after reconsideration of the final decision.

Standard business practices dictate that written procedures should be established for processing of settlement agreements and internal reviews of agreements prior to offering respondents reduced penalties.

Condition:

In settlement agreements and final decisions, DCP instructs respondents to make penalty checks payable to “Treasurer, State of CT – Fund 35125” for the Consumer Protection Enforcement Account. However, Fund 35125 does not exist and the correct coding for this account is Fund 12060, SID 35125.

The standard final decision cover letter advises that respondents may appeal decisions to the Superior Court but does not specify applicable statutes or deadlines for appeal.

DCP does not have written procedures for processing settlement agreements and does not review all agreements prior to offering settlements to respondents.

Context:

A summary of settlement agreement and final decision activity during the audited fiscal years follows:

	2017-2018	2018-2019	2019-2020
Settlement Agreements	237	263	239
Final Decisions	70	60	138

Effect:

Incorrect fund codes on checks increase the risk of monies being deposited into wrong accounts.

Omission of applicable statutes and deadlines for the appeal process from the final decision letter greatly reduces the likelihood that respondents will file timely Superior Court appeals.

The risk of DCP offering inappropriate provisions or penalties increases when settlement agreements are not reviewed prior to presenting them to respondents.

Cause: DCP incorrectly identified the Consumer Protection Enforcement Account 35125 as a fund in the settlement agreements and final decisions, although it is actually an SID.

Due to a large volume of similar settlement cases, DCP allows respondents to sign standard settlement agreements without adequate advance internal review.

Prior Audit Finding: This finding has not been previously reported.

Recommendation: The Department of Consumer Protection should modify language in its settlement agreements and final decisions to accurately specify which account to direct payments. The department should also clearly communicate statutory requirements and deadlines for Superior Court appeals.

The Department of Consumer Protection should establish written procedures for processing settlements and documenting reviews prior to offering settlements to respondents. (See Recommendation 3.)

Agency Response: “Agree in Part: DCP settlement agreements and decisions consistently reference a fund number, but not the account number. Staff have been informed to reflect the appropriate account number in legal documents going forward.

Disagree: Decisions are not required to describe appeal timeframes and procedures. Cover letters notify respondents of their reconsideration rights and state that applicants have the right to appeal. Respondent and respondent’s counsel are responsible for reviewing statutory appeal requirements.

Agree in Part: All settlement agreements are reviewed by the legal director prior to transmission to the commissioner for signature. That may be after a document is signed by the respondent, but only when the case is routine. The vast majority of agreements negotiated by paralegals and attorneys are form agreements with standard settlements. For example, a first-time prescription error by a pharmacist results in an agreement requiring a continuing education course and a warning letter from the Commissioner. Failure to displace a valid license number on advertisements for various occupational trades results in a settlement of \$500-1,000. There are dozens of examples of where the scope of settlement authority rests with staff because the majority of enforcement cases have the same, or substantially similar, fact patterns, and therefore a consistent penalty. Staff are authorized to negotiate those cases without pre-approval. We enter into hundreds of settlement

agreements each year and it is not feasible or efficient to have the legal director review all standardized agreements before the respondent signs. However, when a case deviates from a normal fact pattern, or the circumstances are egregious, staff are expected to flag the case for the Legal Director prior to sending an agreement to a respondent. This process works extremely well to ensure a thorough and efficient review process. In the rare event that the legal director, or the commissioner, find errors in the agreement, we will reject it and inform the respondent that the agreement either needs to be renegotiated or that the department will proceed to a hearing on the matter.

Disagree: There is a process for approval. Agreements signed by the Commissioner are developed by an attorney or paralegal and then vetted by the Legal Director prior to transmission to the Commissioner. This is evidenced by a cover page to any document requiring Commissioner's signature. The cover page lists the people who have reviewed the document. The Department has utilized the cover sheet since 2017."

*Auditors' Concluding
Comment:*

The DCP standard cover letter cites Section 4-181a of the General Statutes, which allows respondents to request that the department reconsider its final decisions. However, the letter does not cite Section 4-183, which allows respondents to appeal to the Superior Court.

While DCP has a process for reviewing settlement agreements prior to the commissioner's approval, the department should review them for appropriateness prior to proposing them to respondents.

Failure to Maintain Accurate Dealer List – Lemon Law/New Automobile Warranty

Background:

The Department of Consumer Protection administers the New Automobile Warranties (NAW) Program, also known as the state's Lemon Law Arbitration Program. Vehicle dealers must report the sale or lease of each new motor vehicle and motorcycle to DCP. The dealer must also submit a corresponding \$3 payment. The Department of Motor Vehicles (DMV) is responsible for vehicle dealer registrations and maintains a list of active licensed vehicle dealers.

Criteria:

Section 42-190 of the General Statutes provides NAW program details and requires a \$3 surcharge for each new motor vehicle and motorcycle leased or sold in Connecticut. This surcharge is collected by Connecticut dealers and deposited into an account administered by DCP to fund the department's Lemon Law Arbitration Program. Under the law, DCP acts as the arbitrator between the vehicle manufacturer

and the consumer.

Condition: Our review of the DCP database and the DMV active licensed dealers list disclosed that DCP did not receive surcharge payments from several Connecticut dealers. Our examination revealed the following:

- Seven dealers listed as active with DMV were not included in the DCP database and did not submit surcharge payments to DCP. Some dealers registered their businesses as long ago as 2001 according to the Connecticut Secretary of the State (SOT) business registrations. Even though DCP audits the NAW program every other year, the audits failed to identify these dealers.
- Five dealers listed as active with DMV were listed as inactive in the DCP database and have not submitted surcharge payments to DCP since they became inactive between 2011 and 2020.

Annual NAW surcharge payments totaling approximately \$22,000 may have gone uncollected.

DCP identified 12 questionable dealer statuses in its 2018 internal audit but failed to determine whether they had paid surcharge fees.

Furthermore, DCP informed us that upon receiving a dealer's closeout notification, DCP staff can change the dealer's status to inactive in the department's database without verification or proper authorization review.

Context: DCP received NAW surcharge payments from 277 active dealers totaling \$522,905, \$521,226 and \$488,070 during fiscal years 2018, 2019 and 2020, respectively. On average, an active dealer paid a \$1,898 surcharge fee each year during the audited period.

Effect: DCP failed to maximize funding of the Lemon Law Arbitration Program.

Cause: A lack of resources and other staffing issues contributed to the conditions.

Prior Audit Finding: The finding has been previously reported in modified form in the last audit report covering the fiscal years ended June 30, 2015 to 2017.

Recommendation: The Department of Consumer Protection should improve procedures to periodically update the new vehicle dealer list, and to identify and follow up with dealers that have not paid surcharges under the New Automobile Warranties Program. Furthermore, the department should

verify dealers' business status when receiving closeout notifications prior to changing them to inactive in the department's database. (See Recommendation 4.)

Agency Response:

“The Department agrees, in part, with this recommendation. In 2018, DCP developed a process to review new vehicle dealership lists and to audit dealers that failed to submit surcharge payments. This was done by generating a roster of dealers licensed by the Department of Motor Vehicles (DMV) and identifying and auditing those dealers with suspicious or missing payments. This required significant staff resources, beyond what was available in the New Automobile Warranties Account. Moreover, many of the audited dealers argued that they weren't delinquent in submitting the surcharges they collected because there was no statutory deadline by which they were required to do so. As a result, in both the 2020 and 2021 Legislative Sessions, DCP requested legislation to impose an annual deadline by which new dealers must submit the surcharges they collect to the State and create a fine for failure to submit the surcharges. (PA 21-37, section 43) Moving forward, DCP plans to develop an automated process to regularly update the new dealer list, however, the most efficient way to collect the surcharges would be to require new vehicle dealerships to submit the surcharges to DMV upon renewal of licensure.”

Software Inventory Deficiencies

Background:

The Department of Consumer Protection is responsible for maintaining software records and performing related inventory procedures.

Criteria:

Section 4-36 of the General Statutes requires each state agency to maintain inventory records in the manner prescribed by the State Comptroller. The State Property Control Manual provides further guidance by establishing agency responsibilities for accounting and reporting of state assets, including maintaining a software control system. The manual includes control policies and procedures and specifies required data to be recorded in inventory records.

Condition:

The department's software inventory records did not contain all of the information required by the State Property Control Manual. The records were missing assigned identification numbers, software versions, serial/registration numbers, initial installation dates, devices installed on and costs.

Effect:

The lack of proper accountability increases the risk that software may be lost, stolen, or improperly used.

- Cause:* The department’s current software management system does not capture all of the required information.
- Prior Audit Finding:* This finding has been previously reported in the last three audit reports covering the fiscal years ended June 30, 2011 through June 30, 2017.
- Recommendation:* The Department of Consumer Protection should ensure that its software inventory listing contains all information required by the State Property Control Manual. (See Recommendation 5.)
- Agency Response:* “We agree in part with the recommendation to continue to improve controls over software inventory and to meet the requirements contained in the State Property Control Manual and will continue to follow the lead and guidance of the statewide Bureau of Enterprise Systems and Technology (BEST).”

RECOMMENDATIONS

Status of Prior Audit Recommendations:

Our prior audit report on the Department of Consumer Protection contained three recommendations. They are all repeated or restated with modifications during the current audit.

- The Department of Consumer Protection should improve internal controls over the accounting and reporting of its accounts receivable balances. Communication between the Department of Consumer Protection and the Department of Administrative Services should be improved to ensure timely write-off of uncollectible accounts. **This recommendation is being modified and repeated. (See Recommendation 1.)**
- The Department of Consumer Protection should develop a procedure to update the new vehicle dealer list. The department should review the updated list and identify any dealers that have not paid surcharges under the New Automobile Warranties Program. The department should audit all dealers that fail to submit such surcharges to determine whether surcharge payments are due. **This recommendation is being modified and repeated. (See Recommendation 4.)**
- The Department of Consumer Protection should continue to improve controls over software inventories and ensure that its inventory listing contains all information required by the State Property Control Manual. **This recommendation is being repeated. (See Recommendation 5.)**

Current Audit Recommendations:

- 1. The Department of Consumer Protection should perform a review of all outstanding accounts receivables and should consider writing off those without recent collections. The department should seek guidance from the Office of the State Comptroller or the Office of Policy and Management regarding when receivable balances should be considered uncollectible and written off.**

Comment:

The department's accounts receivable records included many stale accounts with limited or no collection activity. DCP did not promptly write off uncollectible receivables.

- 2. The Department of Consumer Protection should establish a process for the Legal Division to promptly report imposed penalties to the Business Office to process the accounts receivables. Furthermore, the department should review previous final decisions to identify and establish any outstanding penalties and to initiate the collections process.**

Comment:

The department has not recorded any accounts receivables for unpaid penalties in the Consumer Protection Enforcement Accounts from June 30, 2017 through February 1, 2021.

- 3. The Department of Consumer Protection should modify language in its settlement agreements and final decisions to accurately specify which account to direct payments. The department should also clearly communicate statutory requirements and deadlines for Superior Court appeals.**

The Department of Consumer Protection should establish written procedures for processing settlements and documenting reviews prior to offering settlements to respondents.

Comment:

The department's settlement agreement and final decision documents direct respondents to submit penalties to the incorrect fund and do not specify applicable statutory requirements for filing appeals. Furthermore, the department did not have adequate review procedures prior to offering respondents settlement agreements.

- 4. The Department of Consumer Protection should improve procedures to periodically update the new vehicle dealer list, and to identify and follow up with dealers that have not paid surcharges under the New Automobile Warranties Program. Furthermore, the department should verify dealers' business status when receiving closeout notifications prior to changing them to inactive in the department's database.**

Comment:

The department did not collect required surcharges from several Connecticut automobile and motorcycle dealers for the administration of the New Automobile Warranties Program.

- 5. The Department of Consumer Protection should ensure that its software inventory listing contains all information required by the State Property Control Manual.**

Comment:

The department did not comply with the State Comptroller's software inventory requirements. The records were missing assigned identification numbers, software versions, serial/registration numbers, initial installation dates, devices installed on, and costs.

ACKNOWLEDGMENTS

The Auditors of Public Accounts wish to express our appreciation for the courtesies and cooperation extended to our representatives by the personnel of the Department of Consumer Protection during the course of our examination.

The Auditors of Public Accounts also would like to acknowledge the auditors who contributed to this report:

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