

OFFICE OF THE FULTON COUNTY DISTRICT ATTORNEY

Atlanta Judicial Circuit
136 Pryor Street, SW, 3rd Floor
Atlanta, Georgia 30303-3477

PAUL L. HOWARD, JR.
District Attorney



(404) 613-4984
(404) 893-2769 Fax

February 16, 2012

Anthony Nicks, Director
Internal Audit
141 Pryor Street, SW
Atlanta, Georgia 30303

**RE: District Attorney's Office FY2011 Confiscated Funds Account
Findings and Recommendations**

Dear Mr. Nicks:

This letter is written in response to the Findings and Recommendations provided to the Fulton County District Attorney's Office as part of the FY2011 audit of our Confiscated Funds Account. After carefully reviewing the document, my office offers the following comments and remedies.

Finding #1 - Confiscated Fund Bank Account Not in Compliance

Within this section, Fulton County Internal Audit noted that Confiscated Fund Account 440 is not presently in an interest bearing account and therefore is not in compliance with the Official Code of Georgia Annotated (O.C.G.A.) § 15-6-76.1, 15-7-49, 15-9-18 and 15-20-240. While I appreciate having this matter brought to light, I am sure that you are aware that this is not an issue over which my office has control. The account is set up and managed by the Treasury Department of Fulton County. It is the stated written objective of the review to "assess the effectiveness of procedures and controls implemented by the District Attorney". As such, it would seem more appropriate to list this as a "County" finding instead of a "District Attorney" finding. That being said, my office will work with the Treasury Department to ensure that the funds are moved into an appropriate interest bearing fund.

Finding #2 – Welfare Fraud Commission Funds Improperly Deposited.

In this instance, we disagree with the finding and would like clarification. This finding is related to a check in the amount of \$4,500 procured from the Prosecuting Attorney's Council (PAC) for training. Due to the delayed check receipt from PAC, the training expense was paid through the Confiscated funds account. Upon receipt of the originally requested PAC check, the Confiscated funds account was replenished/reimbursed using PAC funds. The audit indicates that the "Department of Law of the State of Georgia" provided an opinion that is in some way related to this instance. It is unclear the actual legal entity that provided the opinion and how it relates. Please advise as to the specific law or policy that is the basis of the referenced "opinion of the Department of Law of the State of Georgia." We will follow the letter of the law as we always strive to do so.

Finding #3 – Disallowed Confiscated Fund Expenditures

In this instance, we also disagree with the finding and would like to clarify two inaccuracies. First, the finding indicates that there are five expenses termed "disallowable" per O.C.G.A. § 16-13-49. However, a review of the statute does not validate this conclusion. Furthermore, no complaints have been made in the past with regard to similar expenditures. Please find attached a copy of the statute for your assessment. The only *written* disallowed expenses relate to "payment of salaries or rewards to law enforcement personnel" (O.C.G.A. § 16-13-49 (t)(4)(D)(i)) or to "payment of [the] salary of prosecuting attorney...of the Executive Director/Prosecuting Attorney of the Multi-Agency Narcotics Squad in a circuit (1992 *Op. Att'y Gen.* No. U92-22). While the rules governing federal confiscated funds are clearly restrictive, state funds can be used "for any official law enforcement purpose" except in the cases noted above (O.C.G.A. § 16-13-49 (t)(4)(D)(i)). Until and unless you or your auditors are able to provide evidence contrary to what is outlined above, we will *continue* to use these funds in compliance with the code based on this interpretation.

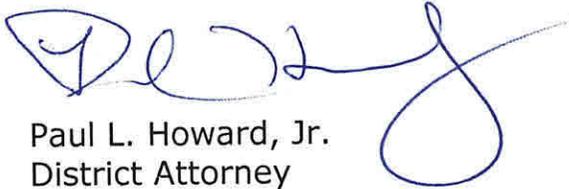
Second, the finding indicates that the Authorization for Expenditure Forms did not contain sufficient information to fully explain the expenditures. After reviewing all expenditure request forms submitted both this year and last, there is not one instance wherein this section is incomplete or fails to fully explain the request. As to the "cost allowable" notation on each form, the office practice is that the reviewers' responsibilities include assessing the appropriateness of the expense and the appropriateness of the fund from which to pay the expense. Only forms wherein both the request and the fund from which the request will be paid are approved—thus all approved funds have the notation "cost allowable".

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I hope that all findings in the Confiscated Funds Account audit have been responded to satisfactorily. On a related note, I recognize that as the County Auditor, it is within your purview to conduct "spot" or "unannounced" audits at any time. However, I would ask that you first make me aware that a spot audit is being conducted and forward any questions regarding expenditures to me. I will follow-up with the appropriate staff and respond to your requests for additional information or clarification. Please refrain from contacting my staff directly.

If any remedy described requires additional information or documentation, please do not hesitate to contact me. Otherwise, without further correspondence, I will assume that our remedies meet the standards necessary to avoid future findings.

Sincerely,

A handwritten signature in blue ink, appearing to read "P. Howard, Jr.", with a large, stylized flourish at the end.

Paul L. Howard, Jr.
District Attorney

Attachment