



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-3873
PHONE: (213) 974-8301 FAX: (213) 626-5427

WENDY L. WATANABE
AUDITOR-CONTROLLER

MARIA M. OMS
CHIEF DEPUTY

ASST. AUDITOR-CONTROLLERS

ROBERT A. DAVIS
JOHN NAIMO
JUDI E. THOMAS

May 13, 2010

TO: Supervisor Gloria Molina, Chair
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

FROM: Wendy L. Watanabe
Auditor-Controller

SUBJECT: **DISTRICT ATTORNEY'S OFFICE – BAD CHECK RESTITUTION
PROGRAM AGREEMENT FINANCIAL/COMPLIANCE AUDIT**

In August 2003, your Board approved an agreement with American Corrective Counseling Services, Inc. (ACCS) to operate the District Attorney's Office's (DA) Bad Check Restitution Program. The Program allows bad check writers to pay restitution to victims and attend counseling classes, instead of facing criminal prosecution. As part of the Program, ACCS reviews and processes complaints from bad check victims, locates and contacts bad check writers, and collects restitution, administrative and diversion class fees from the bad check writers.

At the DA's request, we contracted with an outside Certified Public Accounting firm, Moss, Levy & Hartzheim, LLP (MLH), to verify that ACCS collected, deposited, classified, reconciled and distributed program funds for calendar year 2007 in accordance with the agreement and subsequent amendments.

Audit Results

MLH's report (attached) indicates that ACCS generally complied with the agreement terms for the areas reviewed. The report identified a minor issue with ACCS' allocation of credit card convenience fees based on the agreement. The DA indicated that they will prepare an amendment to the current agreement to address this issue. Details of MLH's recommendation and the DA's and ACCS' responses are included in Exhibit A of the attached report.

Board of Supervisors
May 13, 2010
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Please call me if you have any questions, or your staff may contact Jim Schneiderman at (213) 253-0101.

WLW:MMO:JLS:MP

Attachment

c: William T Fujioka, Chief Executive Officer
Steve Cooley, District Attorney
Public Information Office
Audit Committee

2006-2008 DISTRICT ATTORNEY NSF CHECK
ENFORCEMENT SERVICES AGREEMENT
FINANCIAL/COMPLIANCE AUDIT

AMERICAN CORRECTIVE COUNSELING SERVICES, INC.

INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES

COUNTY OF LOS ANGELES
DISTRICT ATTORNEY NSF CHECK ENFORCEMENT SERVICES AGREEMENT
AGREED-UPON PROCEDURES

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MOSS, LEVY & HARTZHEIM LLP
CERTIFIED PUBLIC ACCOUNTANTS

PARTNERS:

RONALD A. LEVY, C.P.A.
CRAIG A. HARTZHEIM, C.P.A.
HADLEY Y. HUI, C.P.A.

Consultant:

ROBERT M. MOSS (Retired C.P.A.)

9107 WILSHIRE BLVD., STE. 400
BEVERLY HILLS, CA 90210
PHONE: (310) 273-2745
FAX: (310) 273-1689
EMAIL: mlhbh@mlhpcpas.com

**INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES**

Ms. Wendy L. Watanabe
Auditor-Controller
County of Los Angeles
500 West Temple Street, Room 525
Los Angeles, CA 90012

We have reviewed the records of the American Corrective Counseling Services Inc., (ACCS) on a limited scope for a selected test period of the calendar year 2007. The procedures performed involved identifying, evaluating, and verifying the deposit, classification, reconciliation, and distribution of funds by ACCS were in accordance with Agreement 74574 and subsequent amendments. Such procedures were agreed to by the County of Los Angeles Department of Auditor-Controller (County) and were performed solely to assist the County in evaluating the adequacy of the ACCS' financial accounting system and compliance with certain contract requirements and applicable regulations.

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

We agreed to perform the following procedures and report our findings accordingly:

- I. Verify that collections are deposited to the established County sweep account on a daily basis.
- II. Verify that an ACCS corporate holding bank account is not used to deposit payments received for any length of time before depositing to the County sweep account.
- III. Verify that collections are not accepted via a debit card drawn upon on an account from which the original NSF check was generated.
- IV. Verify that individual payments are appropriately classified per agreement requirements.
- V. Verify that individual payments are distributed and paid in accordance with Agreement requirements.

- VI. Verify that ACCS prepares monthly checking account reconciliations between the County revolving fund checking account and the checking account bank statement. In addition, verify that all exceptions are cleared in a timely manner.
- VII. Verify that the daily deposits and distributions for individual accounts are reflected completely and accurately in ACCS accounting records.

The findings resulting from our agreed-upon procedures are described in Exhibit A of this report.

We were not engaged to, and did not conduct an examination, the objective of which would be the expression of an opinion on ACCS' compliance with County requirements and with the terms of its contracts. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the County of Los Angeles, Auditor and Controller, Audits Division, and the Los Angeles County District Attorney's Office and is not intended to be and should not be used by anyone other than these specified parties.

Moss, Levy & Hartzheim

MOSS, LEVY & HARTZHEIM, LLP
Beverly Hills, California
March 18, 2010

**COUNTY OF LOS ANGELES
NSF CHECK ENFORCEMENT SERVICES
SCHEDULE OF FINDINGS AND RECOMMENDATIONS
EXHIBIT A**

2009 -1 Finding – Credit card convenience fees were not applied according to the 70% merchant and 30% class and administration fees

Condition

During our review of case files, we noted that credit card fees were taken out first prior to applying the 70% of payment for restitution and 30% for class fees and administration fees. Additionally, the contract between LA County and ACCS does not contain any language that allows for credit card convenience fees to be taken out prior to applying the 70/30 allocation rule.

Questioned Cost

\$10 (convenience fees for each credit card payment)
217 (credit card payments based on our sample of 500 cases)
 \$2,170

Total Cash collected during 2007	\$ 18,441,921.00
Total of Amount Test for the Period	\$ 3,946,123.00
Total Amount Billed by Credit Card Convenience Fees	\$ 2,170.00
Total Amount Projected Based on Sampled Items	\$ 10,141.34
Projection	0.05%

Criteria

The contract stipulates that “when partial payments are received, victims shall be allocated 70% of every payment until restitution is paid in full. The remaining 30% shall be allocated to class fees, then administrative fees, in that order.”

- A) “Up to 70% of the payment is applied to the Victim”
- B) “The remaining portion shall be paid as follows: 30% shall be applied to class fees, then 30% to administrative fees and lastly to any rescheduling fees.”

Cause

The condition was due to an interpretation of the contract by ACCS.

Effect

ACCS may not be in compliance with the terms and conditions of the contract. In addition, if the payment allocation order changes, the victim may not receive full restitution before administrative fees are applied.

Recommendation

We recommend that ACCS correct the allocation of convenience fees or request an amendment of the contract with LA County.

COUNTY OF LOS ANGELES
NSF CHECK ENFORCEMENT SERVICES
SCHEDULE OF FINDINGS AND RECOMMENDATIONS
EXHIBIT A

2009 -1 Finding – Credit card convenience fees were not applied according to the 70% merchant and 30% class and administration fees (continued)

Management's response

In April of 2009, National Corrective Group, Inc. dba Corrective Solutions assumed the assets of ACCS. It is in this capacity that Corrective Solutions answers this audit finding from 2007. The Convenience Fee is a cost that the check-writer elects at the time of payment in order to make the payment process convenient for him or her. Corrective Solutions incurs direct costs to a third party for processing credit card payments. The Convenience Fee is not part of the original amount due as specified in the notice sent out by the program but is added on top of the amount that the check writer intends to pay as a consequence of the selection of payment method. Consequently it is our interpretation of the contract that the Convenience Fee does not fall under the 70/30 rule in distributing payments.

We have discussed our interpretation of the contract with the District Attorney's Office. It is our desire to request an amendment to the current contract in order to clarify any ambiguity regarding the distribution of the Convenience Fee. However, it is generally felt that because the contract expires in July of 2010 that this issue does not warrant the efforts of an amendment. Unless otherwise instructed Corrective Solutions will keep the current treatment of Convenience Fees until a contract renewal is in place in which this issue can be clarified.

District Attorney's response

The use of credit cards ensures timely payment to the bad check victim. Therefore, we are preparing an amendment to the current contract which will allow credit card convenience fees to be charged to check writers who use a credit card. The fees would not be subject to the 70/30 split.

**COUNTY OF LOS ANGELES
NSF CHECK ENFORCEMENT SERVICES
OBSERVATIONS ON OPERATIONAL OR INTERNAL CONTROL MATTERS
EXHIBIT B**

No Observations noted on Operational or Internal Control Matters

**COUNTY OF LOS ANGELES
NSF CHECK ENFORCEMENT SERVICES
SCHEDULE OF PRIOR YEAR FINDINGS
EXHIBIT C**

No Findings noted for the Prior Year

**COUNTY OF LOS ANGELES
NSF CHECK ENFORCEMENT SERVICES
MISCELLANEOUS INFORMATION
EXHIBIT D**

Primary auditors:	Cathy Choi Michael Pei In Sook Han Derek Bui
On-site review start date:	06/01/09
On-site review completion date:	12/30/09
Exit conference date:	N/A
Draft report issue date:	12/31/09
Final report issue date:	03/18/10
Number of findings noted:	1
Number of observations noted:	None