

STATE OF WEST VIRGINIA

AUDIT REPORT

OF

**WEST VIRGINIA ALCOHOL BEVERAGE
CONTROL ADMINISTRATION**

FOR THE PERIOD

JULY 1, 2003 - JUNE 30, 2005



OFFICE OF THE LEGISLATIVE AUDITOR

CAPITOL BUILDING

CHARLESTON, WEST VIRGINIA 25305-0610

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

FOR THE PERIOD

JULY 1, 2003 - JUNE 30, 2005

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

Theodore L. Shanklin, CPA, Director
Legislative Post Audit Division
Building 1, Room W-329
1800 Kanawha Blvd., E.



Area Code (304)
Phone: 347-4880
Fax: 347-4889

CHARLESTON, WEST VIRGINIA 25305-610

To the Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we have examined the accounts of the West Virginia Alcohol Beverage Control Administration.

Our examination covers the period July 1, 2003 through June 30, 2005. The results of this examination are set forth on the following pages of this report.

Respectfully submitted,


Theodore L. Shanklin, CPA, Director
Legislative Post Audit Division

TLS/jda

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

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WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

EXIT CONFERENCE

We held an exit conference on March 31, 2006 with the Commissioner, Deputy Commissioner, and Enforcement Director of the West Virginia Alcohol Beverage Control Administration and all findings and recommendations were reviewed and discussed. The agency's responses are included in bold and italics in the Summary of Findings, Recommendations and Responses and after our findings in the General Remarks section of this report.

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

INTRODUCTION

The 21st Amendment of the United States Constitution adopted in 1933 repealed national prohibition and gave each state the right to make and enforce its own laws governing alcoholic beverages. In 1934, the people of West Virginia repealed a July 1, 1914 amendment to the State's Constitution which made absolute prohibition a part of their law.

The West Virginia Legislature, on February 22, 1935, repealed Chapter 60 of the West Virginia Code providing for the State control of alcoholic liquors; and, as subsequently amended by Senate Bill No. 294 passed March 8, 1935, created the West Virginia Liquor Control Commission. The West Virginia Liquor Control Commission was abolished by Chapter 5 of the Acts of the 1957 Legislature, which created the Office of the West Virginia Liquor Control Commissioner. The latter office was abolished by Chapter 8 of the Acts of the 1965 Legislature, which act created the office of the West Virginia Alcohol Beverage Control Commissioner and transferred to him all powers and authority vested in the former commission.

The purpose of Chapter 60 of the West Virginia Code is to give effect to the mandate of the people expressed in the repeal of the State prohibition amendment; and to be public policy of the State to regulate and control the manufacture, sale, distribution, transportation, storage and consumption of alcoholic liquors and, at the same time, to assure the greatest degree of personal freedom consistent with the health, safety, welfare, peace and good morals of the people of this State. To these ends the police power of the State is pledged to the sound control and temperate use of alcoholic liquors.

Chapter 9 of the Acts of the 1990 Legislature, established Article 3A, Chapter 60 of the West Virginia Code to be known as the "State Retail Liquor License Act." This act declares that the sale of liquor at retail should no longer be by the State, but rather by retail licensees; that there is a need for the State to control the wholesale sales of liquor; that the health and welfare of the citizens of the State will be adequately protected by the licensing and control of such retail licensees; that the sale of liquor through retail licensees will satisfy reasonable consumer concerns of availability and price; and, that the operation and efficiency of State government will be improved by removing the State from the retail sale of liquor.

The purpose of this act is to continue revenue to the State from the wholesale sale of liquor; provide a system of controls, through limitations on the number of retail outlets and application of the police power of the State, to discourage the intemperate use of liquor; and, obtain for the State financial gain from the issuance of retail licenses.

Chapter 267 of the Acts of the 2000 Legislature, established Article 9, Chapter 60 of the West Virginia Code. The passage of this article gave the West Virginia Alcohol Beverage Control Administration the authority to conduct unannounced inspections at establishments where tobacco products are sold or distributed to ensure compliance with federal and State laws governing the sale and distribution of tobacco products to underage minors.

The administrative office of the West Virginia Alcohol Beverage Control Administration is located at 322 70th Street, Charleston, West Virginia. The warehouse is located at HUB, Nitro, West Virginia.

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

ADMINISTRATIVE OFFICERS AND STAFF

AS OF JUNE 30, 2005

Dallas S. Staples Commissioner
(January 17, 2005 to June 30, 2005)

Ronald M. Moats Acting Commissioner
(November 21, 2003 to January 16, 2005)

Thomas A. Keeley Commissioner
(July 1, 2002 to November 20, 2003)

A. Keith Wagner Deputy Commissioner

Edward Hart Administrative Services Manager

Ronald Moats Administrative Services Manager

Thomas Mullins Comptroller
(May 16, 2004 to June 30, 2005)

Patricia Holtsclaw Comptroller
(July 1, 2003 to October 11, 2003)

Gary Phillips Information Systems Manager

Danny Miller Co-Enforcement Director Region I

John D. Duncan Co-Enforcement Director Region II

Brenda K. Ashley Payroll Supervisor

Cheryl Akers Licensing Supervisor

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION
SUMMARY OF FINDINGS, RECOMMENDATIONS AND RESPONSES

Lack of Effective System of Internal Controls

1. During the course of our examination, it became apparent to us, based on the observed noncompliance with the West Virginia Code, the West Virginia Alcohol Beverage Control Administration (ABCA) did not have an effective system of internal controls in place to ensure compliance with applicable State laws, rules and regulations. We believe an effective system of internal controls would have alerted management to these violations at an earlier date and allowed more timely corrective action.

Auditors' Recommendation

We recommend the ABCA comply with Chapter 5A, Article 8, Section 9(b) of the West Virginia Code, as amended and establish an effective system of internal controls that will serve to alert management to areas of noncompliance with the West Virginia Code and other applicable rules and regulations.

Agency's Response

No response by the Alcohol Beverage Control Administration. (See pages 15-17)

ADMINISTRATION:

Overtime Policy

2. We noted ABCA employees were paid \$196,827.76 in overtime during the period July 1, 2003 through June 30, 2005; however, the ABCA could not provide

documentation showing all of the overtime was approved in advance as required by ABCA policy. We estimate as much as \$101,000.00 of the aforementioned overtime was not approved before it was worked. In addition, we noted an employee was paid twice for nine hours of overtime totaling \$417.00 as the result of a clerical error.

Auditors' Recommendation

We recommend the ABCA comply with its Policy and Procedures for Overtime Statement, revised April 1, 1998, and pay overtime to employees only if there is prior approval of the employee's supervisor. In addition, we recommend the ABCA comply with Chapter 12, Article 3, Section 13 of the West Virginia Code.

Agency's Response

We have implemented procedural changes designed to eliminate the conditions found during the audit. (See pages 18-20)

ENFORCEMENT:

Time Records Disagree with Inspection Reports

3. We noted 13 of 624 weekly activity reports submitted by six ABCA enforcement inspectors and agents were missing which means as many as 75 weekly activity reports may be missing when projected to the total number of 35 ABCA enforcement inspectors. Also, we noted 26 instances out of 1,495 inspection reports tested where the date and time of the inspections on the inspection reports did not agree with the dates and times on the inspector's weekly activity reports and/or monthly time sheet which when projected to the total of 8,750 inspection reports for all ABCA enforcement agents means as many 152 inspection reports may not agree to the

corresponding weekly activity reports or monthly time sheets. Lastly, supervisors are not required to sign enforcement inspector's weekly activity reports to indicate those reports have been reviewed.

Auditors' Recommendation

We recommend the ABCA comply with Policy E-105, Weekly Activity Report to ensure time is recorded properly and accurately as it pertains to inspections. Further, we recommend the ABCA include a space on the weekly activity report for the supervisors to sign to show they are monitoring the activity of the inspectors they supervise.

Agency's Response

The ABCA has implemented changes in procedures designed to implement the recommendations made by the auditors. (See pages 20-24)

Inventory of Evidence Room

4. As noted in our previous audits, the ABCA continues to have a lack of an effective system of control procedures over the disposition of seized evidence, including confiscated cash, involved in liquor control violations.

Auditors' Recommendation

We recommend the ABCA comply with Chapter 12, Article 2, Section 2 of the West Virginia Code, as amended, to strengthen controls over the safeguarding of cash in the ABCA's custody. We further recommend the ABCA comply with Policy 107, Handling of Evidence to strengthen control procedures over the disposition of evidence.

Agency's Response

We have upgraded our evidence system and it has been computerized and procedures put in place to track cash and property electronically through computers and document disposition. (See pages 24-28)

Destruction of Non-Cash Evidence

5. Our audit shows the ABCA retained non-cash evidence for long periods of time after violation cases were adjudicated. According to our work, the ABCA may have retained non-cash evidence in as many as 37 cases for an average of 240 days.

Auditors' Recommendation

We recommend the ABCA comply with Policy Number E-107, Handling of Evidence, of the West Virginia Alcohol Beverage Control Administration, to strengthen internal controls over the disposition of evidence following the settlement of the related violations.

Agency's Response

The ABCA has put in place a new policy to destroy evidence every six months if the evidence is not being held for appeals process. (See pages 28-31)

Collection Procedures for Outstanding Fines

6. As reported in our two previous audits, the ABCA continues to have a lack of effective control procedures over the timely collection of outstanding fines. As of July 22, 2005, the ABCA had past-due accounts receivable for fines totaling \$3,300.00, of which \$2,800.00 was over 60 days late.

Auditors' Recommendation

We recommend the ABCA comply with Chapter 14, Article 1, Section 18a of the West Virginia Code, as amended.

Agency's Response

The time delay involved in collecting fines is usually due to appeals and more than likely the case appealed to circuit court. ABCA cannot set that docket. The other reasons would be the licensee surrenders his license and we will not renew a license until the fine is paid. (See pages 31-34)

Fines Assessed Not Properly Documented

7. During our examination of fines and penalties, we noted three instances where the ABCA set hearing dates for violations and subpoenaed witnesses, and no hearings were conducted. In addition, we noted one instance where an Agreed Order was not completed for a violation.

Auditors' Recommendation

We recommend the ABCA comply with Chapter 60, Article 7, Section 13a of the West Virginia Code, as amended.

Agency's Response

The licensee settled out of court prior to the hearing or they surrendered their license and withdrew their appeal. (See pages 34-36)

Weak Controls Over Imprest Funds

8. In our examination of ABCA Imprest Funds, we noted the following: 14 instances where a Request for Funds form was not signed by the Comptroller documenting

monies advanced from the Comptroller's Imprest Fund; 30 instances where an Underage Operative/Buyer Payment sheet itemizing undercover expenses incurred was not signed by the Enforcement Director or the Comptroller; 37 instances where an Enforcement Fund Reimbursement form was not signed by the Enforcement Director; two instances totaling \$379.00 where undercover expenses were not supported by an approved Enforcement Fund Reimbursement form; and 18 instances totaling \$3,590.44 where the Request for Funds form did not accompany the Enforcement Fund Reimbursement form for the reimbursements being requested.

Auditors' Recommendation

We recommend the ABCA comply with its Policy Number E-114, Imprest Cash Fund Reimbursement, to strengthen controls over the utilization of imprest funds for enforcement purposes.

Agency's Response

We will comply with the audit recommendation. (See pages 36-40)

Fee Schedule for Assessment of Fines and Penalties

9. As reported in our previous two audits, we noted differences between the amounts levied against different licensees for the same violation. In responding to each of these audits, the Commissioner stated there is no logical way to prepare a fine schedule due to the nature of different violations and each violation case is different and may have different combinations of violations cited.

Auditors' Recommendation

We recommend the ABCA comply with Chapter 60, Article 7, Section 13 of the West Virginia Code, as amended. We further recommend the ABCA implement, by

legislative rule, a fee schedule establishing guidelines for fines and penalties as well as developing a written procedure providing for the dismissal of pre-hearing cases.

Agency's Response

There are many variables that effect the amount of the fine (See pages 40-43)

PERSONAL SERVICES:

Miscalculation of Separation Pay

10. We noted that seven employees out of 21 employees test who terminated their employment with the ABCA during the period July 1, 2003 to June 30, 2005 were paid less than what they were due for unused annual leave and pro rata annual increment. We also noted five instances where the employee's ending balance of annual leave as shown on the West Virginia Personnel Action Form (WV-11) to be paid the employee by ABCA as they ended their employment did not agree with the ending balances of their official leave records resulting in some former employees being overpaid while others were underpaid.

Auditors' Recommendation

We recommend the ABCA comply with Chapter 5, Article 5, Section 3 of the West Virginia Code, as amended. In addition, we recommend the ABCA comply with Section 14.14 of the West Virginia Division of Personnel's Administrative Rule and Chapter 12, Article 3, Section 13 of the West Virginia Code. We further recommend the ABCA make payments to those employees who have been underpaid and seek reimbursement of any overpayments identified.

Agency's Response

The ABCA is required to follow the guidance of the West Virginia Division of Personnel when calculating payments for accrued annual leave and pro rata annual increment for employees who are leaving service. (See pages 43-46)

ACCOUNTING:

State Purchasing Card Transactions

11. We noted the ABCA used the State purchasing card to buy refreshments for two employee's retirement parties and the receptions for Public Service Recognition Week and Public Employees Appreciation Week. The total cost of purchases for these four functions was \$200.02.

Auditors' Recommendation

We recommend the ABCA comply with the West Virginia State Auditor's State Purchasing Card Policies and Procedures.

Agency's Response

We have established a policy which discontinued the use of the State purchasing card for the aforementioned purposes. (See pages 46-48)

WAREHOUSE OPERATIONS:

Ballment Inventory

12. We noted a lack of segregation of duties between the employee who destroys damaged product and the employee who prepares the claims for damaged goods, as well as, the employee who counts the inventory and the employee who adjusts the inventory count balance. We also noted a lack of inventory for individual bottles which become separated from packaged cases.

Auditors' Recommendation

We recommend the ABCA comply with Title 175, Series 6 of the Legislative Rule for Bailment Policies and Procedures.

Agency's Response

We have made changes in procedures designed to improve controls in this area.

(See pages 48-51)

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

GENERAL REMARKS

INTRODUCTION

We have completed a post audit of the West Virginia Alcohol Beverage Control Administration (ABCA). The audit covered the period July 1, 2003 through June 30, 2005.

GENERAL REVENUE ACCOUNTS

The following accounts were assigned to the West Virginia Alcohol Beverage Control Administration for the depositing of liquor profits, license and permit fees, wine gallonage taxes and enforcement account revenue into the State General Revenue Fund as follows:

<u>Account Number</u>	<u>Description</u>
0490-551	Private Liquor Store Licenses
0490-553	Statutory Transfers
0490-575	Gallonage Tax *
0491-515	Beer Tax *
0491-516	Beer Licenses

** Tax Accounts are administered by Department of Revenue.*

SPECIAL REVENUE ACCOUNTS

All expenditures required for the general operation of the West Virginia Alcohol Beverage Control Administration are made from the following special revenue accounts:

	<u>Account Number</u>	<u>Description</u>
1		Wine License Special Revenue Operating Account (7350) *
2.		Wine License Special Account (7351) *

7351-001	.....	Personal Services
7351-004	.....	Annual Increment
7351-010	.....	Employee Benefits
7351-099	.....	Unclassified
7351-640	.....	Cash Control

3. General Administrative Account (7352)

7352-001	.....	Personal Services
7352-004	.....	Annual Increment
7352-010	.....	Employee Benefits
7352-099	.....	Unclassified
7352-419	.....	Purchase of Supplies for Resale
7352-425	.....	Transfer of Liquor Profits and Taxes
7352-426	.....	Transfers
7352-640	.....	Cash Control
7352-913	.....	BRIM Premium

4. Alcohol Beverage Control Enforcement Account (7356)

7356-099	.....	Unclassified
7356-640	.....	Cash Control

** These accounts are administered by the Department of Revenue.*

COMPLIANCE MATTERS

Chapter 60 of the West Virginia Code generally governs the West Virginia Alcohol Beverage Control Administration. We tested applicable sections of the above plus general State regulations and other applicable chapters, articles, and sections of the West Virginia Code as they pertain to financial matters. Our findings are discussed below.

Lack of Effective System of Internal Controls

During the course of our audit, it became apparent to us, based on the observed noncompliance with the West Virginia Code, the West Virginia Alcohol Beverage Control Administration did not have an effective system of internal controls in place to ensure compliance

with applicable State laws, rules and regulations. Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, states in part:

“The head of each agency shall: . . . (b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities. . . .”

This law requires the agency head to have in place an effective system of internal controls in the form of policies and procedures set up to ensure the agency operates in compliance with the laws, rules and regulations which govern it.

During our audit of the West Virginia Alcohol Beverage Control Administration, we found the following noncompliance with State laws or other rules and regulations in the areas of enforcement, administration, accounting, licensing, personal services and warehouse operations:

Administration:

(1) The ABCA employees were paid \$196,827.76, in overtime during the period of July 1, 2003 through June 30, 2005. However, the ABCA could not provide us with documentation showing whether approximately \$101,000.00 of it was approved before it was worked, in accordance with the ABCA overtime policy. In addition, an employee was paid twice for nine hours overtime totaling \$417.00, due to clerical error.

Enforcement:

(2) We were unable to reconcile times worked by six enforcement inspectors as noted on their time sheets, weekly activity reports, and the expense vouchers to their inspection reports. (3) On 9/7/2005, we conducted an inventory count of the ABCA’s evidence room. During our inventory count of the ABCA’s evidence room, we noted the lack of a system of control procedures over the disposition of seized evidence and the safeguarding of cash. (4) During our review of fines and penalties, there were two instances where the ABCA was unable to provide an “Order to Destroy Evidence Seized by the WV Alcohol Beverage Control Commissioner” showing the Commissioner’s approval to destroy evidence for adjudicated cases; and further this evidence was kept on hand by the ABCA for long periods of time after the violations had been adjudicated. (5) Our review of fines and penalties assessed

against licensees indicated long periods of time to collect payment from licensees. (6) During our review of fines and penalties, we noted three instances where the ABCA set hearing dates for the violations and subpoenaed witnesses, and no hearings were conducted. In addition, we noted one instance where an Agreed Order was not completed for a violation. (7) During our audit of the ABCA's enforcement imprest funds, we noted the agency's internal controls over these funds were weak. (8) During our audit of fines and penalties, we were unable to determine whether fines and penalties assessed by the ABCA for violations cited against licensees were equitably levied.

Personal Services:

(9) Seven employees were underpaid a total of \$3,085.11, for unused annual leave and pro-rata increment as they terminated their employment with the ABCA. Also, five employees' ending balance of annual leave stated on their WV Personnel Action Forms (WV-11) to terminate their employment, did not agree with the ending balance on their official attendance record. As a result, four of the five employees were paid for a total of 2.73 days more, and one employee was paid .05 of a day less than what their annual leave records indicated they should have been paid.

Accounting:

(10) There were four instances totaling \$200.02, where the ABCA used the purchasing card to buy refreshments for two employee's retirement parties and the receptions for Public Service Recognition Week and Public Employees Appreciation Week, where the attendees to these functions were indicated as "employees" or "ABCA Staff"; and one instance totaling \$245.00 where the vendor did not state the unit price for the items purchased on the sales receipt.

Warehouse Operations:

(11) We noted a lack of segregation of duties between the employee who destroys damaged product and the employee who prepares the claims, and between the employee who counts the inventory and the employee who adjusts the inventory count balance; and a lack of inventory for individual bottles which become separated from packaged cases.

We recommend the ABCA comply with Chapter 5A, Article 8, Section 9(b) of the West Virginia Code, as amended, and establish an effective system of internal controls.

Agency's Response

No response by the Alcohol Beverage Control Administration.

ADMINISTRATION:

Overtime Policy

We noted ABCA employees were paid \$196,827.76 in overtime during the period of July 1, 2003 through June 30, 2005. However, the ABCA could not provide us with documentation showing the overtime was approved before it was worked.

The ABCA's Policy and Procedures for Overtime statement, revised April 1, 1998, states in part:

“... D. All employees must have prior approval or specific request from their supervisor to work in excess of 37.5 hours.”

As part of our overtime audit, we reviewed the monthly time sheets of 15 of the 100 ABCA employees for the period of July 1, 2003 through June 30, 2005. In addition, we obtained the data maintained by the Payroll Division on the overtime paid the ABCA employees each month. We determined the 15 employees in our sample were paid a total of \$27,520.00, or 13.98% of the total overtime paid. We found no documentation of advance approval for \$14,157.00 of this amount. If this amount is projected to the overtime worked by all ABCA employees during the period of July 1, 2003 through June 30, 2005, the overtime worked without prior approval would total approximately \$101,000.00.

The Administrative Services Assistant for Payroll told us nothing is done beforehand to document that the employee is authorized to work overtime. She noted there is a comment section on the employees' monthly time sheet where the supervisor can make remarks concerning the overtime worked during the month. However, she stated the majority of supervisors do not complete the comment section.

Also, we noted an employee was paid twice on the same paycheck for overtime worked, once as part of the employee's regular bi-monthly salary and again as overtime. We found this error as we attempted to verify whether the employee's bi-monthly pay was properly authorized and found it \$417.00 more than it should have been. In addition, we noted the five hours overtime worked by this employee paid in September 2003 and 20 hours overtime worked paid in June 2004, was not properly authorized by her supervisor or the Deputy Commissioner, whose responsibility it is to approve the overtime of administrative-type employees. Further, we noted three out of 20 transactions we tested where employees' monthly time sheets were not approved by their supervisors.

Chapter 12, Article 3, Section 13 of West Virginia Code states:

"No Money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered."

The lack of supervisory approval of an employee's time may result in the possibility of an employee being paid for services not rendered or working unnecessary overtime. By approving the time sheet, the supervisor certifies its accuracy and shows his/her clear acceptance of responsibility for its content. Regarding the payment of overtime twice on the same paycheck, the Payroll Assistant explained she had just started her job and made the mistake in the calculation of this employee's bi-monthly pay. In addition, the Payroll Division could not explain the reason why the overtime worked by these employees was not properly approved.

We recommend the ABCA comply with its Policy and Procedures for Overtime statement, revised April 1, 1998, and pay overtime to employees only if there is prior approval of the employee's supervisor. In addition, we recommend the ABCA comply with Chapter 12, Article 3, Section 13 of West Virginia Code.

Agency's Response

The \$101,000.00 in overtime was a result of fulfilling obligations of grants to Department of Justice and the Governor's Highway Safety Council. The overtime process is actually in reverse from the normal overtime that would be on a request basis, but the overtime process under this program is on a directed basis from management. Therefore, there would not be the normal documentation for overtime requested. Since the time of your audit, we have put in place a checks and balance system whereby supervisors check the time sheets and we are doing random audits.

The overpayment of \$417.00 was a clerical error and we have implemented a checks and balances system that will minimize, if not eliminate, these types of clerical errors.

The ABCA's Policy and Procedures for overtime still states: "All employees must have prior approval or specific request from their supervisor to work in excess of 37.5 hours." However, in the past supervisors would verbally tell their employees when they needed them to work in excess of 37.5 hours. Beginning July 1, 2005 a change was made in order for the Agency to obtain documentation for overtime worked, therefore on the back of the monthly time sheet there is a section for approval of overtime by the supervisors and the Commissioner/Deputy Commissioner. There is a comment section that can be filled out explaining why this employee needed to work overtime for that month. All of this must be completed and signed off on before overtime is paid.

ENFORCEMENT:

Time Records Disagree with Inspection Reports

We reported in our prior audit for the period of July 1, 1996 through June 30, 1997, there was apparently no review system in place to insure the inspectors are accurately recording the

work they do or the time that they spend working and traveling. In the agency's response to this finding, the ABCA stated that all ABCA inspectors have been instructed to report accurate time records on their time sheets, inspection reports and expense reports. However, the following items found during our current audit indicate the ABCA has not fully implemented a system of controls to address these issues.

We tested the inspection reports and the corresponding weekly activity reports, monthly time sheets, and travel expense settlement forms (where applicable) of six ABCA inspectors for the period of July 1, 2003 to June 30, 2005. The Enforcement Supervisors are responsible for ensuring the inspectors complete their weekly activity report and are on duty as indicated on this report and their monthly time report. We compared the dates and times stated on the inspection reports to determine whether they agreed with times worked by the inspector, as reflected on the inspector's weekly activity report or monthly time sheet.

Our test showed 13 out of 624 weekly activity reports tested (2.1%) were missing. We believe the 624 weekly activity reports we reviewed are representative of all the activity reports completed by the ABCA's 35 enforcement inspectors and agents. If the 13 instances where weekly activity reports were missing are projected to the approximate number of weekly activity reports completed by all ABCA enforcement inspectors and agents during the period of July , 2003 to June 30, 2005 totaling about 3,600 activity reports, then as many as 75 weekly activity reports may be missing.

In addition, our test showed 26 instances out of 1,495 inspection reports tested (1.7%) where the date and time of the inspections on the inspection reports did not agree with the date and time on the inspector's weekly activity reports and/or monthly time sheet. We believe the 1,495

inspection reports we tested are representative of all the inspection reports completed by the 35 enforcement inspectors or agents. Using an average of 250 inspection reports completed by the six (6) inspectors, the total number of inspection reports completed by all 35 inspectors/agents would be approximately 8,750. If the 26 instances where the dates and times were not in agreement are projected to all inspections performed during the period of July 1, 2003 to June 30, 2005, then the number of inspection reports where the dates and times were not in agreement with the dates and times on the inspector weekly activity reports and on monthly time sheets would total approximately 152 instances.

Further, we noted from our review of the inspectors' weekly activity reports there was no signature space on the forms for the Enforcement Supervisor to sign indicating he had reviewed the data on the form. Also, five of the six inspectors drove State vehicles during work hours to perform inspections; therefore, the number of travel expense forms we reviewed were minimal. These inspectors were not required to keep a daily log specifying the number of miles driven during each work day and the destinations of travel.

Policy Number E-105, Weekly Activity Report, of the West Virginia Alcohol Beverage Control Administration, which sets out the responsibilities for administration and employees of the ABCA Enforcement Division as it pertains to documenting the work performed by its inspectors, states in part:

"A. Administration

1. Regional Supervisors will collect and maintain copies of employee's Weekly Activity Reports (ABC-Enf.WAR.4). The regional Supervisors will forward all originals to the ABCA office.

2. It will be the Regional Supervisor's responsibility to ensure that employees under their supervision complete Weekly Activity Reports and are on duty as indicated by this form and the monthly report.

B. Employees:

1. All Agents and Inspectors will complete and mail to their immediate Supervisor the original of the Weekly Activity Report Form (#ABC-Enf. WAR.4) upon conclusion of duties for the given week.
2. All Agents and Inspectors will indicate on the front of the Weekly Activity Report Form (#ABC-Enf. WAR.4) indicate dates, times and what duties were performed during the week reported.
3. All Agents and Inspectors will indicate on the back of the Weekly Activity Report Form (#ABC-Enf. WAR.4) a brief description of the duties performed for each day worked, denoting the counties."

Since supervisors are not required to affix a signature or otherwise indicate they have reviewed the weekly activity reports of those they supervise, there is no documentation verifying the supervisor is monitoring whether the time of the inspections coincides with the times worked detailed on the employee's weekly activity report. In addition, since those inspectors with leased vehicles are not being required to maintain a daily mileage log for miles driven during work time, there is no way to accurately determine if use of the vehicles is limited to the requirements of the inspector's official duties.

We spoke with the purchasing assistant concerning the daily mileage log and she stated that ABCA employees with leased/State vehicles assigned to them are not required to maintain such a log documenting mileage. The employees are only required to maintain a total of miles driven each month.

We recommend the ABCA comply with Policy E-105, Weekly Activity Report to ensure time is recorded properly and accurately as it pertains to inspections. Further, we recommend the ABCA include a space on the weekly activity report for the supervisors to sign to show they are monitoring the activity of the inspectors they supervise.

Agency's Response

We do not know what period of time is being referred to but currently we have put in place a system that includes random checks. The records disagree with inspectors' reports from July 1, 2003 to June 30, 2005. We believe that the majority of the weekly activity reports occurred during the 2003 period because policy had not been implemented to create a daily and weekly report and there was no consistency in all areas of time keeping, however, we have since implemented daily and weekly time reports for inspectors and enforcement agents to be audited by their supervisors prior to affixing their signatures. By the year 2007 all this information will be electronically captured and reported.

Inventory of Evidence Room

We reported in our two previous audits the lack of control procedures over the disposition of seized evidence as well as the proper safeguarding of cash evidence. In the agency's response to this finding for the audit period ended June 30, 1997, the ABCA stated that it had initiated a system of controls to account for seized evidence and was taking the necessary steps to properly safeguard cash evidence. In the agency's response to this same finding for the audit period ended June 30, 2002, the ABCA stated it had developed a computer program that tracked all evidence by docket number and case number, and enforcement personnel could generate daily reports which would reflect status of the corresponding violation cases; and thus, seized evidence

could be disposed of in a more timely manner as cases are adjudicated. However, the following instances of noncompliance clearly indicates the ABCA has still not fully implemented an effective system of controls over the disposition of seized evidence and the proper safeguarding of cash evidence.

On September 7, 2005, we conducted a cash count of the ABCA lock box at the State Treasurer's Office. When the lock box was opened, we found \$27 (one twenty dollar bill, one five dollar bill, and two one dollar bills) in an unsealed envelope with only the serial number and the name of a tip board ("serial #503825" and "Show Me The Money") written on the front of the envelope. Later, at the ABCA Central Office, the evidence officer who accompanied us to the State Treasurer's Office located the related evidence form for the \$27.00 in the evidence room log book. As we reviewed the evidence form, we noted the person in charge of the violating establishment did not sign the appropriate portion of the evidence form (#2004-0054) to acknowledge the \$27.00 and three noncash items being seized by the inspector. In addition, as we reviewed the evidence inventory reports for the periods ending June 30, 2004, and June 30, 2005, we could not locate where this cash was entered into the evidence room inventory system. However, we did locate on the inventory reports the three noncash items seized with the cash. Also, the assistant evidence officer told us the related violation during which the money was seized, was adjudicated on June 9, 2004.

Since the ABCA does not have the authority under West Virginia law to keep or retain for its own use the cash confiscated as evidence from alcohol and beer control statute violators, such items are to be remitted to the State. We believe the ABCA should deposit any cash evidence seized in the State General Revenue Fund immediately following the settlement of the corresponding violation case in accordance with its procedure for disposition of seized funds, which states in part:

“. . . All seized funds will be forfeited to the State of West Virginia and all seized evidence will be destroyed in accordance with applicable law.”

In addition, Chapter 12, Article 2, Section 2 of the West Virginia Code, as amended, states in part:

“(a) All officials and employees of the state authorized by statute to accept moneys due the state of West Virginia shall keep a daily itemized record of moneys so received for deposit in the state treasury and shall deposit within twenty-four hours with the state treasurer all moneys received or collected by them for or on behalf of the state for any purpose whatsoever. . . .”

On September 27, 2005 (475 days later), the \$27.00 mentioned earlier was deposited into the State’s General Revenue Fund (Beer Tax Account #0491-516).

The lack of control procedures over the seized cash evidence could result in the unauthorized use or disposition of the confiscated cash. The Evidence Officer and the Enforcement Director did not know why the cash had not been entered in the evidence room computer system. From our review of all evidence forms prepared during fiscal years 2004 and 2005, we noted Evidence Form #2004-0054 was the only form where cash was indicated as having been seized as part of the evidence for a violation.

Also, we noted the following observations regarding items of the 154 evidence forms the ABCA logged into their evidence room inventory system: four instances (2.6%), where the ABCA Evidence Form supporting the evidence seized had not been signed by the Evidence Room Officer or Assistant Officer signifying the evidence had been transferred to the evidence room; four instances (2.6%), where the person in charge of the violating establishment did not sign the appropriate portion of the evidence form for items being confiscated; 18 instances (11.7%), where

the evidences forms could not be located; and three instances (1.9%), where destroyed evidence had not been removed from the active status in the evidence room inventory system. Further, the ABCA placed a pint of Lord Calvert, in error, in a brown paper bag labeled for a pint of Jim Beam and destroyed it in error when the related violation was adjudicated. We observed the pint of Jim Beam in a brown bag labeled for Lord Calvert.

Policy Number E-107, Handling of Evidence, of the West Virginia Alcohol Beverage Control Administration, states in part:

“ . . . B. Employees:

7. Agents and/or Inspectors will maintain the chain of custody for any evidence seized by them. If at any time evidence which is in the possession of an Agent and/or Inspector is transferred into another's custody, this transfer will be so noted on the evidence bag.

C. Evidence Room Officer(s):

1. The Evidence Room Officer and/or Assistant Officer will inspect all evidence bags to insure that all information is complete. The Evidence Room Officer and/or Assistant Officer will not accept any evidence which does not have completed and corresponding paperwork. The Agent and/or Inspector will be required to fill out all information in its entirety before the evidence will be logged into the evidence room.
2. The Evidence Room Officer and/or Assistant Officer will log all evidence in the computer system upon receipt thereof.
3. The Evidence Room Officer and/or Assistant Officer will assign each article of evidence a log number for identification and tracking...
7. The docket number will be written on the evidence bag by the Evidence Officer and/or Assistant Officer before it leaves the evidence room for any court proceeding.

8. The Evidence Room Officer and/or Assistant Officer will follow all State and Federal mandates when destroying and disposing of evidence. ”

Concerning the three instances where destroyed evidence had not been removed from the active status in the evidence room inventory system, the Assistant Evidence Officer told us the ABCA did not find any violation for the three items and destroyed them without removing them from active inventory.

The lack of control procedures over the seized evidence and evidence forms could result in the unauthorized use or disposition of the confiscated evidence. Generally, the aforementioned instances of noncompliance occurred as the result of weak controls over the disposition of evidence and evidence forms.

We recommend the ABCA comply with Chapter 12, Article 2, Section 2 of the West Virginia Code, as amended, to strengthen controls over the safeguarding of cash in the ABCA’s custody. We further recommend the ABCA comply with Policy 107, Handling of Evidence, to strengthen control procedures over the disposition of evidence.

Agency’s Response

There was \$27.00 in the vault at the State Treasurer’s Office and we did not have it documented. It was from a case that had been settled and should have been put in our account but was not. We have upgraded our evidence system and it has been computerized and procedures put in place to track cash and property electronically through computers and document disposition.

Destruction of Non-Cash Evidence

We reported in our two previous audits, the lack of control procedures over the disposition of seized evidence. In the agency’s response to this finding for the period ended June

30, 1997, the ABCA stated that it had initiated a system of controls to account for the disposition of seized evidence. In the agency's response for the period ended June 30, 2002, the ABCA stated when the case and the appeal period is over the evidence will be disposed of according to State law. However, the aforementioned instances of noncompliance clearly indicates the ABCA has still not fully implemented a system of controls over the disposition of seized evidence following the related violation cases being adjudicated.

We tested 20 of the 372 violations which had been adjudicated between July 1, 2003 and June 30, 2005. Of the 20 violation cases tested, four cases involved the seizure of non-cash evidence by ABCA enforcement personnel. Our review of these four violation cases indicated in all four instances, an evidence form had been prepared by enforcement personnel supporting the evidence seized. For two of the four instances, we were provided the "Order to Destroy Evidence Seized by the WV Alcohol Beverage Control Commissioner," showing the Commissioner's approval to destroy evidence for adjudicated cases. In the other two instances, the ABCA was unable to provide the order. These two instances are detailed in the following schedule:

<u>#</u>	<u>Docket Number</u>	<u>Date Seized</u>	<u>Description of Seized Evidence</u>
1	2004-0008	6/23/03	two tips
2	2005-0016	7/29/04	one 22 oz bottle Bud Light

For the two instances where the "Order to Destroy Evidence Seized" was provided, the evidence was destroyed on June 30, 2005. For the two instances above, we noted this evidence was kept on hand by the ABCA for long periods of time after the cases had been adjudicated. Subsequent to these cases being adjudicated, their related evidence remained in the ABCA's evidence room for 81 days and 400 days respectively, prior to being destroyed. We believe the period of time during

which the two items of evidence were retained in the ABCA evidence room to be representative of the period of time all evidence is held after their respective cases have been adjudicated. If the four instances are projected to the 372 violations adjudicated during the period of July 1, 2003 to June 30, 2005, then the number of adjudicated violations where evidence was seized would approximate 74. If the two instances, where seized evidence was kept on hand by the ABCA for long periods of time after the cases had been adjudicated, are projected to the approximate 74 adjudicated violations, then the ABCA might have kept the non-cash evidence for as many as 37 violations in the evidence room for an average 240 days prior to being destroyed.

Policy Number E-107, Handling of Evidence, of the West Virginia Alcohol Beverage Control Administration, states in part:

“ . . . C. Evidence Room Officer(s):

5. Evidence will not be destroyed until forty days have passed from the date of any adjudication made after an ABCA Administrative Hearing or after the appeal process is complete. . . .

8. The Evidence Room Officer and/or Assistant Officer will follow all State and Federal mandates when destroying and disposing of evidence.”

The lack of control procedures, over the disposition of seized evidence following the settlement of the corresponding violations, could result in the unauthorized use or disposition of the confiscated evidence. Generally, the aforementioned instances of noncompliance occurred as the result of weak controls over the disposition of evidence. Concerning the long periods of time evidence is maintained on hand by the ABCA, subsequent to these violations being adjudicated, the Evidence Officer stated once every six month he will usually clear the evidence room of the evidence where the corresponding violations have been adjudicated.

We recommend the ABCA comply with Policy Number E-107, Handling of Evidence, of the West Virginia Alcohol Beverage Control Administration, to strengthen internal controls over the disposition of evidence following the settlement of the related violations.

Agency's Response

Evidence seized is held until the violation charge is settled. When the adjudication is in an administrative court, violators are entitled to relief through circuit courts and that appeal process may go on for years and the ABCA does not have control over that process in circuit court. Because of the expense of destroying evidence, we used to wait until we had several cases. A new policy has been put in place to destroy evidence every six months if the evidence is not being held for appeal process.

Collection Procedures for Outstanding Fines

We reported in our two previous audits the lack of control procedures over the timely collection of outstanding fines. In addition, we noted long periods of time to process violations reports which attributed to the delay in settling the violations. The following instances of noncompliance clearly indicate the ABCA has not addressed these problems.

We tested 20 violations out of 372 violations settled during the period July 1, 2003 through June 30, 2005. Our test showed the total processing time to settle these 20 violations ranged from 3 days to 179 days, with an average processing time of 28 days. As of July 22, 2005, the ABCA's fines accounts receivable balance included \$3,300.00 of past due fines, of which \$2,800.00 is over 60 days late. For fines that have not been collected, the ABCA's collection procedures are:

"denying a licensee renewal of their license for the next year if a fine is still outstanding. The ABCA may also send an inspector to the licensee's place of business to inquire the reason the licensee has not paid their fine."

For fines assessed which are not collected in a timely manner, the ABCA is without the use of these monies. We questioned agency personnel concerning the lengthy processing time to settle violations. We were told the main reason violations are not settled in a timely manner is due to licensees not remitting their payment to the ABCA in accordance with the time frame as directed by the Waiver of Hearing form, Agreed Order, or Commissioner's Order. Of the 20 violation report forms we reviewed, there were two violations where the licensee did not remit payment of their fine in accordance with the time frame specified in the Waiver of Hearing form, Agreed Order, or Commissioner's Order. If the two instances are projected to the 372 cases settled during our audit period, then the number of cases where the licensees did not remit their fines in the time frame specified might be as many as 37 cases. The past due amounts of fines exist because the ABCA has not implemented the collection procedures available to them.

In addition, our review of fines and penalties showed in nine instances long periods of time between the date of the violation and its entry into the agency's Violation Tracking System. We determined the delay in time for these nine instances ranged from 11 days to 49 days, with an average delay in time of 23 days. The fines and penalties assessed and paid for these violations totaled \$4,751.

The sanctions the Commissioner can impose on licensees with outstanding violations are addressed in Chapter 60, Article 7, Section 13 of the West Virginia Code, as amended, which states in part:

“(a) Upon a determination by the commissioner that a licensee has:
(i) Violated the provisions of article sixteen, chapter eleven, or of this chapter; (ii) acted in such a way as would have precluded initial or renewal licensure; or (iii) violated any rule or order promulgated by the commissioner, the commissioner may impose any one or a combination of the following sanctions:

- (1) Revoke the licensee's license;
- (2) Suspend the licensee's license;
- (3) Place the licensee on probationary status for a period not to exceed twelve months; and
- (4) Impose a monetary penalty not to exceed one thousand dollars for each violation where revocation is not imposed. . . .”

Due to these delays, some of the payments in settlement of the violations, were not received in a timely manner. Agency personnel explained to us these delays resulted from the chain of persons through whom the violation report had to pass before the report was submitted to the Violations Division for recording in the Violation Tracking System. In four of the nine instances, we believe the delay was caused by both untimely writing of the violation report, as well as, a delay in forwarding the violation report to the Violation Division. In another four instances, it appeared the delay was specifically caused by the process of getting the violation report to the Violation Division and getting it entered into the Violation Tracking System. We believe the nine instances are representative of the 372 violations processed and settled during the period of July 1, 2003 and June 30, 2005. If these nine instances where there was a delay in processing and settling the violation are projected to all the violations processed and settled during this period, then the number of cases delayed for one or more of the reasons stated above would total approximately 167 cases.

Finally, during our review of fines and penalties, we noted one instance where the inspector did not sign for the violation report forms when received. The ABCA requires the inspectors/agents to sign for the violation report forms in order to track the status of each violation form issued. If the violation forms are not signed for by the inspector/agent, then the ABCA cannot verify the receipt of the forms by the inspector/agent as well as tracking the status of each form. In this one instance, the inspector had not signed the form stating that the forms were received.

We recommend the ABCA comply with Chapter 14, Article 1, Section 18a of the West Virginia Code, as amended.

Agency's Response

The time delay involved in collecting fines is usually due to appeals and more than likely the cases appealed to circuit court. ABCA cannot set that docket. The other reasons would be the licensee surrenders his license and we will not renew a license until the fine is paid.

Fines Assessed Not Properly Documented

During our test of fines and penalties, we noted three instances (out of 20 transactions tested) where the ABCA set hearing dates for three violations and subpoenaed witnesses, and no hearings were conducted. In addition, we noted one instance where an Agreed Order was not completed for the violation. With all three violations, the ABCA followed the applicable provisions of West Virginia laws, the ABCA's Legislative Rules and Regulations, as well as, the ABCA own procedures to afford the licensees the opportunity to request an administrative hearing or pay the designated fine to settle the violations. In all instances, the licensees opted to pay the designated fine and remitted their payment with their notification of waiver. However, in all three instances, the licensees did not respond timely to the ABCA's communication to settle their violation. We noted the delay in time between the date of the ABCA's notice of violation and the date the ABCA receipted the licensees' payments was 280 days, 47 days, and 20 days respectively. If these three instances where the licensees did not respond timely to the ABCA's communication to settle their violation is projected to all violations settled by the ABCA during our audit period, then the number of violations where there was a delay in time between the ABCA's notice of violation and the ABCA's receipt of licensees; fines and penalties would total approximately 55 violations. During

this delay in time, the ABCA set times for hearings as set forth in Title 175, Series 2, Section 6, Hearing and Appeal Procedure, which states:

“6.2 Petition for hearing. - Any applicant or licensee adversely affected by an order of the Commissioner, shall have the right to a hearing before the Commissioner or a person designated by him or her as hearing examiner. A petition in writing requesting a hearing must be served upon the Commissioner within ten (10) days following the receipt by the applicant or licensee of the order.”

Also, the ABCA subpoenaed witnesses in all three instances. Further, we did not see in any of the three cases where a hearing was conducted. In addition, we did not see where the ABCA assessed any of the three licensees for the costs incurred to prepare for the hearings, which were not conducted.

Chapter 60, Article 7, Section 13a of the West Virginia Code, as amended, states in part:

“. . .The commissioner may, upon a finding of violation, assess a licensee a sum, not to exceed one hundred fifty dollars per violation, to reimburse the commissioner for expenditures of witness fees, court reporter fees and travel costs incurred in holding the hearing. Any moneys so assessed shall be transferred to the alcohol beverage control enforcement fund created by section thirteen of this article....”

Even though the licensees proceeded to pay the fine amount originally assessed by the ABCA as reflected on the Waiver of Hearing form prior to the hearings set for the violations, we believe the ABCA could have assessed the licensee up to an additional \$150.00 for hearing costs in accordance with Chapter 60, Article 7, Section 13a of the WV Code, as amended. If we apply the \$150.00 to the approximate 55 violations above, then the ABCA could have assessed up to an additional \$8,250.00 to offset its expenses in arranging hearings that did not take place. When we asked the reason for a Commissioner’s Order or other document not being prepared after the receipt

of the licensee's payment, we were told it was assumed the payment by the licensee of the original fine amount precluded the preparation of a Commissioner's Order (or other instrument).

In addition, for eight Agreed Orders issued after the licensees opted to waive a hearing, we noted the ABCA accepted the Agreed Orders from six licensees without their signature being notarized in accordance with the Agreed Order, which states:

“ . . .if the licensee accepts the conditions of the Agreed Order, the licensee is required to sign this Agreed Order before a Notary and return the same to the Commissioner as acknowledgment of receipt and agreement therewith.”

When a legal document is not properly executed, it may not retain its force if the licensee affected by a legal action decides to exercise his/her right under a given law. We noted the instruction to the licensee on how the licensee was to execute the Agreed Order was not placed in a space approximate to the space where the licensee was to sign the Agreed Order before a notary.

We recommend the ABCA comply with Chapter 60, Article 7, Section 13a of the West Virginia Code, as amended.

Agency's Response

The licensee settled out of court prior to the hearing or they surrendered their license and withdrew their appeal.

Weak Controls Over Imprest Funds

During our review of the close out of the \$5,000 imprest fund of the comptroller and of the reimbursements made to one of the five imprest funds assigned to the enforcement supervisors, we tested 65 transactions involving the expenditures of imprest monies to fund various undercover operations. We noted the following items: 14 instances where a Request for Funds form was not signed by the Comptroller documenting monies advanced from the Comptroller's Imprest

Fund; 30 instances where an Underage Operative/Buyer Payment sheet itemizing undercover expenses incurred was not signed by the Enforcement Director or the Comptroller; 37 instances where a Enforcement Fund Reimbursement form was not signed by the Enforcement Director; two instances totaling \$379.00, where undercover expenses were not supported by an approved Enforcement Fund Reimbursement form; and 18 instances totaling \$3,590.44, where the Request for Funds form did not accompany the Enforcement Fund Reimbursement form for the reimbursements being requested. In addition, we noted five instances totaling \$41.45, where the inspector did not properly itemize the expenditures on his Enforcement Fund Reimbursement Sheet, but rather recorded "other expenses." Also, we noted two instances where the invoices in support of the expenditures for computer equipment included taxes of \$2.40 and \$2.28. Further, there were two instances where receipts were not provided for purchases of ink cartridges costing \$31.79 and \$58.16.

Policy Number E-114, Imprest Fund Cash Fund Reimbursement of the West Virginia

Alcohol Beverage Control Administration states in part:

I. Purpose:

To establish procedures for the spending and accountability for all monies used for Underage Compliance Checks received from the Imprest cash fund.

II. Policy:

A. Administration:

... 2. Regional Supervisors will be responsible for dispersing "buy money" to Agents and/or Inspectors within his her region or special assignment in another region to be used for Underage Compliance Checks from his/her Imprest Cash Fund Account.

3. Regional Supervisors will be responsible for insuring that his/her Imprest Cash Fund Account is kept balanced.

4. Regional Supervisors will settle his/her account in no more than (10) working days following an Underage Compliance Check.

5. Regional Supervisors will check forms (ABC-Enf.9,10,11,12) to insure that all "buy money" was spent appropriately and that all paperwork demonstrates how money was spent during the Underage Compliance Checks.

B. Employees:

1. Agents and/or Inspectors will sign form (ABC-Enf.9) documenting receipt of "buy money."

2. Agents and/or Inspectors will fill out form (ABC-Enf.10) to demonstrate dispersal of "buy money." "Buy money" will be used only for legitimate purchases and payment of the Underage Operative/Buyer during the completion of Underage Compliance Checks.

3. Agents and/or Inspectors will fill out form (ABC-Enf.11) upon completion of Underage Compliance Checks demonstrating how much the Underage Operative/Buyer received as payment for services rendered. . . ."

Lack of documentation for the expenditure of cash advances or monies reimbursed to inspectors/agents for undercover expenses incurred, as well as, the records supporting the expenditure of imprest fund monies not being reviewed and approved by the appropriate enforcement officials could result in the unauthorized use or disposition of the cash. The lack of control procedures governing the use of imprest fund monies, as well as, the lack of supervisory review by the appropriate enforcement officials of the records supporting each Imprest Fund has resulted in the inconsistent documentation of the expenditure of imprest fund monies and the use of the monies from the imprest funds for activity which is not in compliance with the purpose of the enforcement imprest funds.

During our review of imprest fund reimbursements after July 1, 2005, we reviewed two WVFIMS coversheets which consisted of 45 imprest fund forms. We continued to observe these forms were not being reviewed or signed by the appropriate enforcement personnel as designated on the respective forms. In addition, we noted enforcement personnel are still using the out-dated imprest fund forms to document their imprest fund activity.

Finally, we noted each enforcement supervisor was solely responsible for maintaining the imprest fund assigned to them. Therefore, there was no independent reconciliation performed on a monthly basis reconciling the bank statement balance to the checkbook balance or to the reimbursement records submitted in support for a reimbursement request by the supervisor. In response to our follow-up reviews of our 2002 audit, the ABCA told us:

“For each imprest fund assigned to an enforcement supervisor which is maintained in a local bank account, the ABCA has instructed the banks where these funds are kept to send the monthly bank statements for each account to the ABCA Main Office rather than directly to the enforcement supervisors. The bank statements are received by the comptroller who is now responsible for maintaining these bank statements. Upon receiving each enforcement supervisor’s reimbursement request, the comptroller will reconcile the monthly bank statements against the reimbursement records submitted by the enforcement supervisor.”

However, the Comptroller informed us he has not been performing this reconciliation as he was not aware of the ABCA’s response, nor has he been instructed to do so.

We reported in our two previous audits the lack of control procedures over the utilization of imprest funds for enforcement purposes. In the agency’s responses to this finding for the period ending June 30, 1997, the ABCA further stated that it would strengthen controls over its enforcement imprest funds. In the agency’s response to this finding for the period ending June 30, 2002, the ABCA stated that it would establish a procedure to have banks mail statements to the

ABCA Central Office, and the accounts would be reconciled there. The aforementioned instances of noncompliance clearly indicates the ABCA has still not fully implemented an effective system of controls over the utilization of imprest funds for enforcement purposes.

We recommend the ABCA comply with its Policy Number E-114, Imprest Cash Fund Reimbursement, to strengthen controls over the utilization of imprest funds for enforcement purposes.

Agency's Response

We will implement a process by which the enforcement director will audit the imprest funds for legitimate use and the controller will make certain that the amounts are reconciled with the receipts.

Fee Schedule for Assessment of Fines and Penalties

During our audit of fines and penalties, we noted differences between fine amounts levied against different licensees for the same violation. The noted differences in fines and penalties assessed were as follows:

1. §11-16-18(a)(3) - Sell, Give, Furnish Underage with Non-Intoxicating Beer - Fines levied against licensees ranged as follows:
 - First offense (no previous violation of any type) - fines levied ranged \$1.00 to \$300. (The licensee was fined \$1.00, in addition to being required to purchase a scanner for underage identification checks.)
 - Licensee with one previous violation of some type - fines levied ranged from \$200 to \$350.
2. §60-7-12(a)(3) - Sell, Give, Permit Consumption - Fines levied against licensees ranged as follows:
 - First offense (no previous violation of any type) - the fine was \$200.

- Licensee with 12 previous violation of some type, six of which were against this Code section - the fine was \$2,000.

3. §60-7-12(a)(3) - Sell, Give, Permit Consumption and §175-2-4.2 - Sell, Require Proof of ID - Fines levied against licensees ranged as follows: between \$300 and \$650.

- First offense (no previous violation of any type) - the fine was \$300.

- Licensee with seven previous violations , five of which were against §60-7-12(a)(3) - Sell, Give, Permit Consumption, and three against §175-2-4.2 - Sell, Require Proof of ID - the fine was \$650.

The sanctions the Commissioner can impose on licensees with outstanding violations are addressed in Chapter 60, Article 7, Section 13 of the West Virginia Code, as amended, which states in part:

“(a) Upon a determination by the commissioner that a licensee has: (i) Violated the provisions of article sixteen, chapter eleven, or of this chapter; (ii) acted in such a way as would have precluded initial or renewal licensure; or (iii) violated any rule or order promulgated by the commissioner, the commissioner may impose any one or a combination of the following sanctions:

- (1) Revoke the licensee’s license;
- (2) Suspend the licensee’s license;
- (3) Place the licensee on probationary status for a period not to exceed twelve months; and
- (4) Impose a monetary penalty not to exceed one thousand dollars for each violation where revocation is not imposed. . . .”

As a result, we were unable to determine whether fines and penalties assessed by the ABCA for violations cited against licensees were equitably levied. The lack of a formal fines and penalties assessment schedule provides the opportunity for licensees who commit the same violation(s) to be fined on an unequal basis. The ABCA should establish a formal schedule of fines and penalties for violations to ensure such fines and penalties are levied equitably against licensees.

We reported in our audit for the period of July 1, 1996 through June 30, 1997, an existing fee schedule was not being utilized by the ABCA for the assessment of fines and penalties. In the agency's responses to this finding, the ABCA stated that it was in the process of developing a revised fee schedule. However, no such fee schedule was ever prepared and the fee schedule existing during that audit is no longer utilized. Also, we reported in our audit for the period of July 1, 2000 through June 30, 2002, the ABCA had not established a fee schedule for fines and penalties. In the agency's responses to this finding, the ABCA stated that a schedule of fines would be implemented for most of the violations that they receive. Additionally, during our follow-ups to this audit in October 2003 and July 2004, we found during each of these follow-ups that no action had been taken on our recommendations. On both occasions, the Commissioner stated there is no logical way to prepare a fine schedule due to the nature of different violations. In the Commissioner's view since each violation case is different and may have different combinations of violations cited, there is no logical way to prepare a fine schedule.

We also noted the ABCA had not acted on recommendations in our two previous audits to develop a written procedure providing for the dismissal of pre-hearing cases. During both of our follow-ups, the Commissioner stated that violation dismissals are within the scope of the Commissioner's authority and he decides the ultimate fines and penalties to be assessed in violation cases.

We recommend the ABCA comply with Chapter 60, Article 7, Section 13 of the West Virginia Code, as amended. We further recommend the ABCA implement, by legislative rule, a fee schedule establishing guidelines for fines and penalties as well as developing a written procedure providing for the dismissal of pre-hearing cases.

Agency's Response

There are many variables that effect the amount of the fine, i.e., the source of our information on the violation; where other government agencies have taken action; seriousness of the violation; the number of times the same violation has occurred; whether death or injury is included in the violation and the code allows the commissioner to levy fines up to \$1,000.00 or revoke or suspend licenses.

PERSONAL SERVICES:

Miscalculation of Separation Pay

We noted seven employees out of 21 employees who terminated their employment with the ABCA during the period of July 1, 2003 to June 30, 2005 were paid less than what they were due for unused annual leave and pro rata increment. These employees and the amount of underpayment were as follows:

<u>Name of Employee</u>	<u>Audited Annual Leave and Increment</u>	<u>Annual Leave and Increment Paid</u>	<u>Difference</u>
Employee #1	\$17,020.30	\$16,395.98	\$ 624.32
Employee #2	7,123.25	6,470.49	652.76
Employee #3	979.93	934.50	45.43
Employee #4	5,021.31	4,413.19	608.12
Employee #5	612.50	466.67	145.83
Employee #6	8,930.95	7,793.29	1,137.66
Employee #7	337.04	129.17	<u>207.87</u>
Total			<u>\$3,411.64</u>

Chapter 5, Article 5, Section 3, of the West Virginia Code, as amended, states in part:

“. . . In determining the amount of annual leave entitlement, weekends, holidays or other periods of normal, non-countable time shall be excluded, and no deductions may be made for contributions toward retirement from lump sum payments for unused, accrued annual leave, since no period of service credit is granted in relation thereto; however, such lump sum payment may not be a part of final average salary computation; . . .”

At the direction of the West Virginia Division of Personnel, the ABCA includes holidays when calculating the amount of unused annual leave and the tenure value of annual leave for the pro rata annual increment due the employee on his/her termination with the ABCA. The Administrative Services Assistant for Payroll told us the Division of Personnel will not approve the payment of annual leave and increment if the ABCA excludes holidays in its calculation.

Also, we noted five instances where the employee's ending balance of annual leave stated on their WV Personnel Action Forms (WV-11) to be paid them as they terminated their employment with the ABCA, did not agree with the ending balance on their official attendance record.

Section 14.14 of the Division of Personnel's Administrative Rule states:

“14.14. Leave Records - Each agency shall maintain a current leave record of its employees' accrued and used leave. Each employee shall have access to his or her leave records subject to the appropriate agency's established rules. Supervisors and employees shall attest to the accuracy of the records on a periodic basis, but not less than twice annually.”

As a result, four of the five employees were paid for a total of 2.73 days more, and one employee was paid .05 of a day less than what their annual leave records indicated they should have been paid. The Administrative Services Assistant for Payroll told us the aforementioned errors

were the result of calculations made under the former Payroll Supervisor, which she could not explain.

Further, we noted one instance where an incorrect number of working days was used in the lump sum annual leave calculation; one instance where the employee was paid for more annual leave days than what was recorded on his attendance record; one instance where the employee's years of service was calculated incorrectly for his pro rata increment; one instance where the wrong number of days was used in the pro rata increment calculation; and one instance where the wrong number of pay periods was used in calculating an employee's pro rata share of annual increment.

Also, Chapter 12, Article 3, Section 13 of the West Virginia Code states,

"No money shall be withdrawn from the treasury to pay the salary of any officer or employee before his services have been rendered."

The ABCA not maintaining accurate sick and annual leave balances could lead to employees being underpaid or overpaid for lump sum payments for any unused annual leave upon their retirement/resignation or could adversely affect an employee's retirement annuity or the amount of extended health insurance coverage an employee would be entitled to receive for the conversion of any of their unused sick leave. The Administrative Services Assistant for Payroll told us the aforementioned errors were the result of clerical errors made.

We recommend the ABCA comply with Chapter 5, Article 5, Section 3, of the West Virginia Code, as amended. In addition, we recommend the ABCA comply with Section 14.14 of the West Virginia Division of Personnel's Administrative Rule, and Chapter 12, Article 3, Section 13 of the West Virginia Code. We further recommend the ABCA make payments to those employees who have been underpaid and seek reimbursement of any overpayments identified.

Agency's Response

Regarding the seven employees who terminated their employment with ABCA during July, 2003 - June, 2005, who said there was an amount of underpayment, the following explanation:

Section 14.1 of the Division of Personnel's Administrative Rule states:

14.1.(d) Official Holidays

An employee must either work or be on approved paid leave for either the full scheduled work day before or the full scheduled work day after the holiday and either work or be on approved paid leave for any fraction of the scheduled work day before or the scheduled work day after the holiday to receive pay for the holiday. No employee is entitled to payment for any holiday that occurs prior to the first day of work or after the date of separation. (Sub-section 3.25).

Therefore, according to the Division of Personnel's Rule, we did not pay these employees that separated from our employment for holiday pay.

The five employees' annual leave balances not agreeing with WV-11's – these were a result of the previous Payroll Supervisor which could not be explained.

ACCOUNTING:

State Purchasing Card Transactions

During our review of purchasing card transactions, we noted the ABCA used the purchasing card to buy refreshments for two employee's retirement parties and the receptions for Public Service Recognition Week and Public Employees Appreciation Week. The "Hospitality Documentation" we reviewed indicated the attendees to these functions were "employees" or "ABCA Staff". The total cost of purchases for these four functions was \$200.02.

Regarding hospitality used by State agencies, the Expenditure Schedule Instructions of Department of Revenue, State Budget Office, states in part:

“042 - Hospitality: Food, nonalcoholic beverages and related expenses for the reception of guests by spending agency for a specific event or function relating to conducting state business....”

By spending monies without statutory authority, the ABCA may be spending monies for purposes not intended by State law. The Purchasing Assistant stated she was not aware the State did not allow the purchase of food items for functions other than the reception of guests relating to conducting State business.

In addition, we noted one instance where the vendor did not state the unit price on his sales document for purchases totaling \$254 made with the State Purchasing Card. Section 7.1 of the West Virginia State Auditor’s State Purchasing Card Policies & Procedures states in part:

“Receipts: An itemized receipt must be obtained for each transaction placed on the card. A receipt must contain certain specific information and meet certain conditions:

- Receipts must be itemized and include a description, unit cost, quantity, and total cost for each item. Use of “Miscellaneous” or “Merchandise” is not acceptable. . . .”

Without knowing the unit price, we could not determine whether the ABCA paid the correct price(s) for purchased merchandise. The ABCA did not make the vendor aware of requirements for a legitimate receipt for a purchase made with a State purchasing card under the Purchasing Card Program.

We recommend the ABCA comply with the West Virginia State Auditor’s State Purchasing Card Policies & Procedures.

Agency's Response

The purchasing card is used for retirement parties when the employee's spouse and/or relatives attend. The purchase card was used in previous years for Public Service Recognition Week and Public Employees Appreciation Week. We established a policy in 2004 that discontinued the use of the purchasing card for this purpose.

WAREHOUSE OPERATIONS:

Bailment Inventory

As we reported in our two previous audits, the ABCA was maintaining products not authorized for sale from suppliers. A further review of agency records showed that the following delisted items are currently being maintained in the ABCA warehouse as of September 9, 2005:

<u>No.</u>	<u>Bottle Code</u>	<u>Description</u>	<u>No. of Cases in Stock</u>
1	2062	TIO PEPE SHERRY	8
2	2076	ST ANDREW GOLF B	3
3	2787	GLENFARCLAS 17 Y	1
4	2992	BOWMORE'S CASK	1
5	4892	TANQUERAY STERLI	2
6	5183	BAUCHANT LIQ NAP	1
7	6078	PALLINI LEMONCEL	<u>35</u>
Total Number of Cases on Hand			<u>51</u>

As reported in our two previous audits, we also noted the destruction of liquor was performed by the same employee who prepares the "Report of Loss and Damage - Affidavit of Claim" forms. These forms are used to account for unsaleable product due to damage and assigns

responsibility for the claim -- such as distiller, truck or ABCA liability. In addition, we noted this employee conducts inventory counts of bailment stock and also makes the adjustments in the Agency's Bailment Inventory Control System for any shortages or overages without approval of management.

Further, we noted individual liquor bottles that became separated from damaged case packs in a pallet. These bottles are placed in an area separate from the bailment stock in the bottle hospital. The ABCA does not maintain an inventory of these individual bottles as part of their computerized inventory records noting the change of location of the liquor. However, a typewritten list by bottle code is kept for these individual bottles.

Title 175, Series 6, Sections 4.2, 4.3, 4.4 and 4.5 state,

"4.2 Suppliers are required to notify ABCC warehouse personnel at least forty-eight (48) hours in advance of shipment of quantities, by code, of product being delivered to the ABCC Warehouse. The supplier will be provided with an unloading reference number at the time ABCC is notified of shipment.

4.3 The shipment will not be accepted if the quantities to be delivered will place the warehouse inventory of the product being delivered over the maximum level. The supplier will be notified of such nonacceptance within 24 hours of original notification.

4.4 The supplier will be responsible for obtaining the freight carrier. The supplier must provide the carrier with the ABCC unloading reference number.

4.5 The carrier is required to call the ABCC Warehouse to obtain an unloading appointment time. The carrier must indicate the supplier and the ABCC unloading reference number when scheduling the appointment. Carriers should call at least one (1) working day in advance to arrange the unloading time. Trucks arriving without appointments and reference numbers will not be unloaded."

A lack of control procedures over bailment inventory increases the likelihood of theft of stock and losses to the State. The ABCA should continue to strengthen controls over shipments to ensure the correct number of cases are shipped and accept from suppliers only product available for sale by the State. Acceptance of delisted stock by warehouse personnel usually occurs because the distillers were not notifying the warehouse of quantities and codes of product to be delivered by calling ahead for a reference number. Also, some distillers do not have their own freight carriers, therefore, when delisted or excess inventory is delivered the freight carrier will not return these items to the distiller. ABCA personnel will attempt to contact the distiller and arrange pick up of the delisted stock. We believe the ABCA should not accept responsibility for shipments of unsaleable liquor and implement the criteria noted above.

Next, the destruction of product should be performed or witnessed by someone other than the employee preparing the claim forms, and any adjustment to the inventory count should be made only after the approval of management. Also, liquor bottles that become separated from damaged case packs in a pallet are placed in a separate area from the bailment stock without this change being reflected in the agency's computerized inventory system. Although the separated bottles are accounted for in the bailment inventory, the ABCA should maintain an additional inventory in their computer system for these bottles due to the location change in the warehouse.

Further, we noted six instances where the invoices for the store's order were not signed by the truck driver or retailer as verification the order was received by the retailer.

Title 175 Series 1, Section 4, states:

"4.8.4. Both the transport driver and the authorized representative of the retail liquor store must sign the Invoice Form after it has been checked and any adjustments or corrections made. The transport

driver will transport any claims made for breakage, shortage and overage on the Invoice Form, Exception Section, and Retailer Claim Form (Appendix IV.)”

Without the signature of the truck driver or the retailer, we are unable to determine if the goods were delivered or received.

We reported in our two previous audits the lack of control procedures over delisted stock, destruction of defective merchandise, and inventory of bottles which become separated from damaged cases. However, the aforementioned instances of noncompliance clearly indicates the ABCA has still not strengthened its system of internal controls to address these issues.

We recommend the ABCA comply with Title 175, Series 6 of the Legislative Rule for Bailment Policies and Procedures.

Agency's Response

When unauthorized product is received the supplier is immediately contacted to arrange for the product to be returned or authorization to have it destroyed. Also due to lack of sales an item may be delisted by the agency and at this time the supplier is contacted to have product returned or authorization to have product destroyed. Destruction of liquor is now taken to an authorized landfill and is witnessed by at least two enforcement agents. The destruction is also filmed for agency and supplier records.

INDEPENDENT AUDITORS' OPINION

The Joint Committee on Government and Finance:

We have audited the statement of cash receipts, disbursements and changes in cash balance of the West Virginia Alcohol Beverage Control Administration for the years ended June 30, 2005 and June 30, 2004. The financial statement is the responsibility of the management of the West Virginia Alcohol Beverage Control Administration. Our responsibility is to express an opinion on the financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note A, the financial statement was prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues collected and expenses paid of the West Virginia Alcohol Beverage Control Administration for the years ended June 30, 2005 and June 30, 2004, on the basis of accounting described in Note A.

Our audit was conducted for the purpose of forming an opinion on the basic financial statement taken as a whole. The supplemental information is presented for the purpose of additional analysis and is not a required part of the basic financial statement. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statement and, in our opinion, is fairly stated in all material respects in relation to the basic financial statement taken as a whole.

Respectfully submitted,


Theodor L. Shanklin, CPA, Director
Legislative Post Audit Division

September 22, 2005

Auditors: Michael A. House, CPA, Audit Manager
Peter J. Maruish, Jr., CPA, Auditor-in-Charge
Sheela S. Francis
Brandy L. McNabb
Jamie L. Gilbert

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS

AND CHANGES IN CASH BALANCE

	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Cash Receipts:		
Liquor Sales and License Fees	\$61,815,205.69	\$59,903,091.88
Less: Liquor Payments to Distillers	<u>46,898,232.70</u>	<u>45,481,361.78</u>
	14,916,972.99	14,421,730.10
Gallonage Tax	1,242,071.97	1,198,615.69
Beer Tax	7,403,885.25	7,425,279.88
Private Club License Fees	2,432,110.00	2,269,735.00
Other License and Permit Fees	167,000.00	272,101.00
Beer License Fees	928,665.00	888,073.05
Wine License Collections	261,462.50	243,972.41
Enforcement Accounts Collections	85,385.00	111,618.20
Tobacco Settlement Fund Monies	200,000.00	200,000.00
Miscellaneous Income	<u>113,353.75</u>	<u>112,618.04</u>
	12,833,933.47	12,722,013.27
Disbursements:		
Personal Services	3,518,404.80	3,460,879.83
Employee Benefits	1,328,711.73	1,364,878.77
Current Expenses	2,178,262.68	2,007,275.05
Repairs and Alterations	44,490.66	43,736.39
Equipment	16,081.66	89,749.56
Claims	2,485.42	1,408.68
Refunds	<u>49,805.00</u>	<u>37,205.00</u>
	7,138,241.95	7,005,133.28
Cash Receipts Over Disbursements	20,612,664.51	20,138,610.09
Transfer to General Revenue Fund 0490-553	(20,618,387.71)	(19,329,009.94)
Beginning Balance	<u>7,872,472.81</u>	<u>7,062,872.66</u>
Ending Balance	<u>\$ 7,866,749.61</u>	<u>\$ 7,872,472.81</u>

See Notes to Financial Statement

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

NOTES TO FINANCIAL STATEMENT

Note A - Accounting Policy

Accounting Method: The cash basis of accounting was followed for all accounts. Therefore, certain revenues and the related assets are recognized when received rather than when earned and certain expenses are recognized when paid rather than when the obligation is incurred. Accordingly, the financial statement is not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

Note B - Pension Plan

All eligible employees are members of the West Virginia Public Employees' Retirement System. Employee contributions are 4.5% of their compensation and employees are vested under certain circumstances. The West Virginia Alcohol Beverage Control Administration matches contributions at 10.5% of the compensation on which the employee made contributions. The West Virginia Alcohol Beverage Control Administration's pension expenditures for the 2005 and 2004 fiscal years were as follows:

	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Wine License Special Account (7351)	\$ 19,785.15	\$ 21,752.07
General Administrative Account (7352)	<u>343,652.25</u>	<u>337,968.53</u>
Total	<u>\$363,437.40</u>	<u>\$359,720.60</u>

Note C - Accounts Administered by the West Virginia Department of Revenue

The Department of Revenue was responsible for the collection and remittance of taxes to the General Revenue Fund during the 2005 and 2004 fiscal years for the following:

	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Gallongage Tax Account (0490-575)	\$1,242,071.97	\$1,198,615.69
Beer Tax Account (0491-515)	<u>7,403.885.25</u>	<u>7,425.279.88</u>
Total	<u>\$8,645,957.22</u>	<u>\$8,623,895.57</u>

Further, the Alcohol Beverage Control Administration was responsible for collection of cash receipts for both the Wine License Special Revenue Operating Account and the Wine License Special Account for the 2005 and 2004 fiscal years as follows:

	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Wine License Special Revenue Operating Account (7350)	\$ 0.00	(\$ 25,688.40)
Wine License Special Account (7351)	<u>259,237.50</u>	<u>267,810.81</u>
Total	<u>\$259,237.50</u>	<u>\$242,122.41</u>

However, the Department of Revenue made cash disbursements from the Wine License Special Account during the 2005 and 2004 fiscal years as follows:

	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Wine License Special Account (7351)	<u>\$261,072.50</u>	<u>\$294,139.92</u>

SUPPLEMENTAL INFORMATION

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

GENERAL REVENUE

ABCA - Beer Commission General Administrative
Account - Beer Tax - Account 0491-515

Year Ended June 30,
2005 **2004**

Beginning Balance:		
State Treasury	\$ 0.00	\$ 0.00
Cash Receipts:		
Beer Tax	<u>7,403,885.25</u>	<u>7,425,279.88</u>
TOTAL CASH TO ACCOUNT FOR	<u>\$7,403,885.25</u>	<u>\$7,425,279.88</u>
Disbursements:		
Transfers to General Revenue Fund of West Virginia	\$7,403,885.25	\$7,425,279.88
Ending Balance:		
State Treasury	<u>0.00</u>	<u>0.00</u>
TOTAL CASH ACCOUNTED FOR	<u>\$7,403,885.25</u>	<u>\$7,425,279.88</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

GENERAL REVENUE

ABCA - Beer Commission General Administrative

Account - Beer Licenses - Account 0491-516

Year Ended June 30,
2005 **2004**

Beginning Balance:		
State Treasury	\$ 0.00	\$ 0.00
Cash Receipts:		
Beer License Fees	<u>928,665.00</u>	<u>888,073.05</u>
TOTAL CASH TO ACCOUNT FOR	<u>\$928,665.00</u>	<u>\$888,073.05</u>
Disbursements:		
Transfers to General Revenue Fund of West Virginia	\$928,665.00	\$888,073.05
Ending Balance:		
State Treasury	<u>0.00</u>	<u>0.00</u>
TOTAL CASH ACCOUNTED FOR	<u>\$928,665.00</u>	<u>\$888,073.05</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

GENERAL REVENUE

<u>ABCA Collections Account -</u> <u>Private Liquor Store Licenses - Account 0490-551</u>	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Beginning Balance:		
State Treasury	\$0.00	\$0.00
Cash Receipts:		
Proceeds from 10-Year ABCA Liquor License Sales	<u>0.00</u>	<u>0.00</u>
TOTAL CASH TO ACCOUNT FOR	<u>\$0.00</u>	<u>\$0.00</u>
Disbursements:		
Transfers to General Revenue Fund of West Virginia	\$0.00	\$0.00
Ending Balance:		
State Treasury	<u>0.00</u>	<u>0.00</u>
TOTAL CASH ACCOUNTED FOR	<u>\$0.00</u>	<u>\$0.00</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

GENERAL REVENUE

<u>ABCA Collections Account -</u> <u>Statutory Transfers - Account 0490-553</u>	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Beginning Balance:		
State Treasury	\$ 0.00	\$ 0.00
Cash Receipts:		
Statutory Transfers from Accounts 7352 and 7355	<u>11,043,765.49</u>	<u>9,817,041.32</u>
TOTAL CASH TO ACCOUNT FOR	<u>\$11,043,765.49</u>	<u>\$9,817,041.32</u>
Disbursements:		
Transfers to General Revenue Fund of West Virginia	\$11,043,765.49	\$9,817,041.32
Ending Balance:		
State Treasury	<u>0.00</u>	<u>0.00</u>
TOTAL CASH ACCOUNTED FOR	<u>\$11,043,765.49</u>	<u>\$9,817,041.32</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

GENERAL REVENUE

<u>ABCA Collections Account -</u> <u>Gallonage Tax - Account 0490-575</u>	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Beginning Balance:		
State Treasury	\$ 0.00	\$ 0.00
Cash Receipts:		
Gallonage Tax	<u>1,242,071.97</u>	<u>1,198,615.69</u>
TOTAL CASH TO ACCOUNT FOR	<u>\$1,242,071.97</u>	<u>\$1,198,615.69</u>
Disbursements:		
Transfers to General Revenue Fund of West Virginia	\$1,242,071.97	\$1,198,615.69
Ending Balance:		
State Treasury	<u>0.00</u>	<u>0.00</u>
TOTAL CASH ACCOUNTED FOR	<u>\$1,242,071.97</u>	<u>\$1,198,615.69</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS

AND CHANGES IN CASH BALANCE

SPECIAL REVENUE

<u>Wine License Special Revenue Operating</u> <u>Account - Account 7350</u>	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Cash Receipts:		
Wine Sales & Distributorship License & Label Registration Fees	\$0.00	(\$25,688.40)
Disbursements	<u>0.00</u>	<u>0.00</u>
Cash Receipts (Under) Disbursements	0.00	(25,688.40)
Beginning Balance	<u>0.00</u>	<u>25,688.40</u>
Ending Balance	<u>\$0.00</u>	<u>\$ 0.00</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENTS OF APPROPRIATIONS AND EXPENDITURES

SPECIAL REVENUE

Wine License Account -

Personal Services - Account 7351-001

Appropriations	\$224,718.00	\$224,718.00
Expenditures	<u>186,130.17</u>	<u>204,212.43</u>
	38,587.83	20,505.57
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 38,587.83</u>	<u>\$ 20,505.57</u>

Wine License Account -

Annual Increment - Account 7351-004

Year Ended June 30,

2005

2004

Appropriations	\$4,000.00	\$3,200.00
Expenditures	<u>2,300.00</u>	<u>2,950.00</u>
	1,700.00	250.00
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$1,700.00</u>	<u>\$ 250.00</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENTS OF APPROPRIATIONS AND EXPENDITURES

SPECIAL REVENUE

Wine License Account -
Employee Benefits - Account 7351-010

Appropriations	\$88,780.00	\$78,856.00
Expenditures	<u>71,117.02</u>	<u>78,504.65</u>
	17,662.98	351.35
Transmittals Paid After June 30	<u>1,158.18</u>	<u>365.71</u>
Balance	<u>\$18,821.16</u>	<u>\$ 717.06</u>

Wine License Account -
Unclassified - Account 7351-099

Year Ended June 30,
2005 **2004**

Appropriations	\$145,292.00	\$156,016.00
Expenditures	<u>1,525.31</u>	<u>8,472.84</u>
	143,766.69	147,543.16
Transmittals Paid After June 30	<u>121.50</u>	<u>0.00</u>
Balance	<u>\$143,888.19</u>	<u>\$147,543.16</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

SPECIAL REVENUE

<u>Wine License Special Account - Cash</u> <u>Control - Account 7351</u>	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Beginning Balance:		
State Treasury	\$482,161.75	\$508,802.01
Cash Receipts:		
Wine Sales & Distributorship License & Label Registration Fees	<u>259,237.50</u>	<u>267,810.81</u>
TOTAL CASH TO ACCOUNT FOR	<u>\$741,399.25</u>	<u>\$776,612.82</u>
Disbursements:		
Personal Services	\$188,430.17	\$207,162.43
Employee Benefits	71,117.02	78,504.65
Current Expenses	1,525.31	8,366.44
Equipment	<u>0.00</u>	<u>106.40</u>
	261,072.50	294,139.92
Add Transmittals Paid July 1-31 Beginning; and (Less) Transmittals Paid July 1-31 Ending:		
Employee Benefits	365.71	618.90
(Employee Benefits)	(1,158.18)	(365.71)
Current Expense	(121.50)	57.96
(Current Expense)	<u>0.00</u>	<u>0.00</u>
	<u>(913.97)</u>	<u>311.15</u>
	260,158.53	294,451.07
Ending Balance:		
State Treasury	<u>481,240.72</u>	<u>482,161.75</u>
TOTAL CASH ACCOUNTED FOR	<u>\$741,399.25</u>	<u>\$776,612.82</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENTS OF APPROPRIATIONS AND EXPENDITURES

SPECIAL REVENUE

<u>General Administrative Account - Personal Services - Account 7352-001</u>	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Appropriations	\$3,510,014.00	\$3,510,014.00
Expenditures	<u>3,255,397.66</u> 254,616.34	<u>3,190,342.67</u> 319,671.33
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 254,616.34</u>	<u>\$ 319,671.33</u>

<u>General Administrative Account - Annual Increment - Account 7352-004</u>		
	Appropriations	\$ 79,000.00
Expenditures	<u>74,576.97</u> 4,423.03	<u>74,515.48</u> 1,484.52
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 4,423.03</u>	<u>\$ 1,484.52</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENTS OF APPROPRIATIONS AND EXPENDITURES

SPECIAL REVENUE

<u>General Administrative Account - Employee Benefits - Account 7352-010</u>	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Appropriations	\$1,416,893.00	\$1,356,893.00
Expenditures	<u>1,284,838.86</u> 132,054.14	<u>1,258,079.53</u> 98,813.47
Transmittals Paid After June 30	<u>26,451.68</u>	<u>0.00</u>
Balance	<u>\$ 158,505.82</u>	<u>\$ 98,813.47</u>
<u>General Administrative Account - Unclassified - Account 7352-099</u>		
Appropriations	\$1,855,070.00	\$1,918,070.00
Reappropriations:		
Fiscal Year 2004	94,158.37	0.00
Fiscal Year 2003	66,667.36	202,034.90
Fiscal Year 2002	300,255.04	300,255.04
Fiscal Year 2001	<u>203,130.48</u>	<u>276,237.48</u>
	2,519,281.25	2,696,597.42
Expenditures:		
Current Expenses	2,087,902.02	1,897,597.94
Repairs and Alterations	44,490.66	43,736.39
Equipment	16,081.66	89,643.16
Claims	<u>2,485.42</u>	<u>1,408.68</u>
	<u>2,150,959.76</u>	<u>2,032,386.17</u>
	368,321.49	664,211.25
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 368,321.49</u>	<u>\$ 664,211.25</u>
Components of Balance June 30,		
Fiscal Year 2005	\$ 31,605.41	\$ 0.00
Fiscal Year 2004	0.00	94,158.37
Fiscal Year 2003	0.00	66,667.36
Fiscal Year 2002	300,255.04	300,255.04
Fiscal Year 2001	<u>36,461.04</u>	<u>203,130.48</u>
Balance	<u>\$ 368,321.49</u>	<u>\$ 664,211.25</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENTS OF CASH RECEIPTS AND DISBURSEMENTS

SPECIAL REVENUE

**General Administrative Account - Purchase
of Supplies for Resale - Account 7352-419**

**Year Ended June 30,
2005 2004**

Cash Receipts	\$46,898,232.70	\$45,481,361.78
Disbursements	<u>46,898,232.70</u>	<u>45,481,361.78</u>
Balance	<u>\$ 0.00</u>	<u>\$ 0.00</u>

**General Administrative Account - Transfer of
Liquor Profits and Taxes - Account 7352-425**

Cash Receipts	\$11,033,400.00	\$ 9,800,000.00
Disbursements	<u>11,033,400.00</u>	<u>9,800,000.00</u>
Balance	<u>\$ 0.00</u>	<u>\$ 0.00</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENTS OF CASH RECEIPTS AND DISBURSEMENTS

SPECIAL REVENUE

<u>General Administrative Account - Transfers - Account 7352-426</u>	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Cash Receipts	\$0.00	\$0.00
Disbursements	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$0.00</u>	<u>\$0.00</u>
<u>General Administrative Account - BRIM Premium - Account 7352-913</u>		
Appropriations	\$0.00	\$0.00
Expenditures	<u>0.00</u>	<u>0.00</u>
	0.00	0.00
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$0.00</u>	<u>\$0.00</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

SPECIAL REVENUE

<u>General Administrative Account - Cash Control - Account 7352</u>	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Beginning Balance:		
State Treasury	\$ 7,359,945.57	\$ 6,491,340.93
Cash Receipts:		
Liquor Sales	61,815,205.69	59,903,091.88
Private Club License Fees	2,432,110.00	2,269,735.00
Other License and Permit Fees	167,000.00	272,101.00
Tobacco Settlement Fund Monies	200,000.00	200,000.00
Miscellaneous Income	<u>113,353.75</u>	<u>112,618.04</u>
	<u>64,727,669.44</u>	<u>62,757,545.92</u>
TOTAL CASH TO ACCOUNT FOR	<u>\$72,087,615.01</u>	<u>\$69,248,886.85</u>

	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Disbursements:		
Personal Services	\$ 3,329,974.63	\$ 3,264,858.15
Employee Benefits	1,284,838.86	1,258,079.53
Current Expenses	2,087,902.02	1,897,597.94
Repairs and Alterations	44,490.66	43,736.39
Equipment	16,081.66	89,643.16
Claims	2,485.42	1,408.68
Purchase of Liquor	46,898,232.70	45,481,361.78
Refunds	<u>47,580.00</u>	<u>35,355.00</u>
	53,711,585.95	52,072,040.63
Add Transmittals Paid July 1-31 Beginning; and		
(Less) Transmittals Paid July 1-31 Ending:		
Personal Services	0.00	(11,140.75)
(Personal Services)	0.00	0.00
Employee Benefits	0.00	28,041.40
(Employee Benefits)	0.00	0.00
Current Expenses	0.00	0.00
(Current Expenses)	0.00	0.00
Repairs and Alterations	0.00	0.00
(Repairs and Alterations)	0.00	0.00
Equipment	0.00	0.00
(Equipment)	<u>0.00</u>	<u>0.00</u>
	<u>0.00</u>	<u>16,900.65</u>
	53,711,585.95	52,088,941.28
Transfer to General Revenue Fund 0490-553	11,033,400.00	9,800,000.00
Ending Balance:		
State Treasury	<u>7,342,629.06</u>	<u>7,359,945.57</u>
TOTAL CASH ACCOUNTED FOR	<u>\$72,087,615.01</u>	<u>\$69,248,886.85</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS

AND CHANGES IN CASH BALANCE

SPECIAL REVENUE

Nonintoxicating Beer Enforcement

Account - Account 7355

	<u>Year Ended June 30,</u>	
	<u>2005</u>	<u>2004</u>
Cash Receipts:		
Fines, Penalties and Other Collections	\$0.00	\$ 2,844.20
Disbursements:		
Current Expenses	0.00	22,144.20
Repairs and Alterations	0.00	0.00
Equipment	<u>0.00</u>	<u>700.00</u>
	<u>0.00</u>	<u>22,844.20</u>
Cash Receipts (Under) Disbursements	0.00	(20,000.00)
Transfer to General Revenue Fund 0490-553	0.00	(17,041.32)
Beginning Balance	<u>0.00</u>	<u>37,041.32</u>
Ending Balance	<u>\$0.00</u>	<u>\$ 0.00</u>

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS

AND CHANGES IN CASH BALANCE

SPECIAL REVENUE

Alcohol Beverage Control Enforcement
Account - Account 7356

Year Ended June 30,
2005 2004

Cash Receipts:		
Fines, Penalties and Other Collections	\$85,385.00	\$108,774.00
Disbursements:		
Current Expenses	88,956.85	79,108.51
Repairs and Alterations	0.00	0.00
Equipment	0.00	(700.00)
	<u>88,956.85</u>	<u>78,408.51</u>
Cash Receipts (Under)/Over Disbursements	(3,571.85)	30,365.49
Transfer to General Revenue Fund 0490-553	(10,365.49)	0.00
Beginning Balance	<u>30,365.49</u>	<u>0.00</u>
Ending Balance	<u>\$16,428.15</u>	<u>\$ 30,365.49</u>

STATE OF WEST VIRGINIA

OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:

I, Thedford L. Shanklin, CPA, Director of the Legislative Post Audit Division, do hereby certify that the report appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 9th day of April 2006.



Thedford L. Shanklin, CPA, Director
Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the West Virginia Department of Revenue; the West Virginia Alcohol Beverage Control Administration; Governor; Attorney General; State Auditor; and, Director of Finance Division, Department of Administration.