



April 8, 2013

Final Investigative Report Concerning Ombudsman Complaint # 2013-0017

COMPLAINT

An Anchorage citizen received court fines in 2010 for violating an Anchorage Municipal Code. In July of 2011 she mailed a check for the balance of her fees to the Municipality of Anchorage Treasury Department. The check was returned to her indicating "We show your case being paid." In October 2012 she received a notice from the Municipal Services Bureau referencing the same case number and stating her account was now in Collections and she owed an additional \$89.61 in fees.

FINDINGS

This complaint against the Treasury Department is **JUSTIFIED**.

ANALYSIS AND CONCLUSIONS

On February 22, 2010 the constituent was assessed court fines and costs. At that time the Court granted 2 years to pay off the balance, with a due date of February 22, 2012. On July 24, 2011, the constituent mailed a check referencing her case number in the amount of \$330.00 to the Treasury Division DCF (Delinquent Criminal/Civil Fines and Fees) of the Municipality in payment of her account (*See Exhibit A*). On July 29, her check was returned to her with a response from a "Revenue Collection Representative" indicating "We show your case being paid." She assumed that her account had been resolved.

In October 2012 the constituent received notice from the Municipal Services Bureau, in its capacity as collections agent for the Municipality (AMC 6.70.120(B)), indicating that her account was now overdue in the amount of \$389.61. She called the Treasury Department for clarification and was told that the fine was from the Court and not a municipal issue. The constituent called the Ombudsman's office on February 1, 2013 and requested assistance.

A review of the relevant court case on the Alaska Court View system indicates the account balance is \$0.00, however further investigation of the small icon by each individual fine in the "Amount Adjusted" column clarifies that the amount of \$300 had been sent to Collections on May 3, 2012.

After conversations with Municipal Services Bureau (MSB), the Municipal Treasury Department and the Criminal Division of the Alaska Court System, the Associate Ombudsman was able to explain to the constituent that a fine ordered by the Court remains in the Alaska Court accounting system until the fine is due. If the account falls into default or non-payment, the account is then forwarded to the Municipality to seek payment (Alaska Court System Administrative Bulletin No. 39(4)). The Municipality then forwards the account to MSB for collections, as allowed by AMC 6.70.120(B) which states: "The municipality may assign delinquent municipal debt to a collection agency. The related cost of collection

shall become the sole liability of the debtor and shall be paid by the debtor, with debtor funds, to the collection agency.” The Associate Ombudsman determined that it was not the practice of the Court (state) or the Municipal Treasury Department to send any notice to constituents after the initial levy of a fine in a court proceeding.

Because the Municipality informed the constituent that her account was paid after she had made a good faith effort to pay the balance, and because she was not notified otherwise prior to her account being forwarded to collections, the collection fee should not have been assessed to this constituent. *A preliminary report regarding this matter was provided to the Treasury Department and a response was received on April 5, 2013. In response to the Ombudsman’s recommendations, the Department developed a special insert to be added to all initial demand letters sent on criminal cases clarifying the department’s collection process (see attached). The Department also confirmed that the form letter sent to the complainant was no longer in use. In addition, the Department provided the following clarifications to the individual recommendations.*

In consideration of these findings, the Ombudsman finds this complaint to be JUSTIFIED and makes the following recommendations:

- 1) **that the Municipal Treasury Department send a Final Demand notice to debtors and allow a period of 15 days for the account to be brought current prior to sending the account to Collections.** *The Department response was that “[s]ending a 15-day Final Demand letter is our standard practice; however, the balance due on that letter will only be the amount the Alaska Court has transferred to us at the time of mailing. This is reiterated in the new criminal demand letter insert.”*
- 2) **that fines being remanded from the Court be allowed a 30 day grace period, allowing the debtor time to seek clarification of the process.** *The Department responded that the “Alaska Court routinely transfers delinquent fines and fees to DCF between 30-60 days after the due date. This grace period was reiterated in the new letter insert.”*
- 3) **that any communication between the Treasury Department and a debtor regarding their account makes clear that though there may not be a current balance due to the Municipality, it is possible a balance may be outstanding to the Court or to Municipal Services Bureau. Information on how to access that information and how to make payment should be provided,** *The Department clarified, “by including the new letter insert, we are able to address all of these issues when the initial demand letter is mailed to the defendant.”*
- 4) **that the Treasury Department refund to the constituent the amount of \$89.61 that was assessed by the MSB for a collection fee, as the constituent did attempt to pay the fine in a timely manner and the Treasury Department did not inform her the fine was still due and the constituent should not have been assessed the extra charges.** *The Department refunded to the constituent the amount of \$89.61 which is the amount of the collection fee.*

Based on these findings and these recommendations, this case is closed.

If you object to the Ombudsman's decision to decline or discontinue this investigation or review you may file a grievance with the Ombudsman as specified in A.M.C.R. 2.60.006.



Heather MacAlpine
Associate Ombudsman



Darrel Hess
Municipal Ombudsman

MUNICIPALITY OF ANCHORAGE



Division or Department Name Finance/Treasurer

907-343-6688

Mayor Dan Sullivan

July 29, 2011

[REDACTED]
Anchorage, AK 99516

Ref case [REDACTED]

Dear Sir or Madam:

Your check/money order #1116 dated 07/24/11 for \$ 330.00 is being returned to you for the following reason:

- The remittance is not made payable to the Municipality of Anchorage.
- The written and printed amounts are not legible.
- We are unable to identify the account being paid.
- Other: We show your case being paid.

Revenue Collection Representative
Municipality of Anchorage
907-343-6688

Enclosure (1)

[REDACTED]

7/24/11

1116

88-7202/3252

PAY TO THE ORDER OF

Treasury division DCF

\$ 330.00

three hundred thirty and 00/100

DOLLARS



MP

AlaskaUSA
Federal Credit Union

Toll free (800) 825-6094
Anchorage (907) 853-4567
www.alaskausa.org

FOR # 3AN-09-[REDACTED] CR

[REDACTED]

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A judgment entered in a criminal case requires the payment of various charges to the Alaska Court on various due dates. The Court transfers any unpaid charges to the Treasury Division of the Municipality of Anchorage (MOA) for collection, typically between 30 – 60 days after they become due. If you fail to pay these additional amounts due before the end of the Court's grace period, the MOA may refer these additional amounts due to our 3rd party collection agency, which will lead to additional collection fees and credit reporting.

The balance due on the enclosed demand letter represents the unpaid delinquent charges that have been transferred by the Court to the MOA at this time. The MOA may not send additional correspondence regarding the outstanding amount due. It is your responsibility to monitor the various due dates specified on your judgment. We recommend that you use a paper or electronic means to set reminders to yourself of any future due dates associated with court ordered fines or fees. You may choose to review your due dates by looking up your case on the Alaska Court System website at www.courtrecords.alaska.gov. The example below can be found on the Financial Dockets tab of your online case record.

Date	Description	Owed	Adjusted	Paid	Due	Due Date
02/27/2013	Fine Due	\$10,000.00	\$5,000.00	\$0.00	\$5,000.00	03/01/2013
02/27/2013	Police Training Surcharge	\$75.00	\$75.00	\$0.00	\$0.00	03/09/2013
02/27/2013	Cost of Imprisonment Judgment Payable to Collections Office.	\$2,000.00	\$2,000.00	\$0.00	\$0.00	02/27/2013
02/27/2013	Cost of Appointed Counsel Judgment - Payable to Collections Office.	\$200.00	\$200.00	\$0.00	\$0.00	02/27/2013
		\$12,275.00	\$7,275.00	\$0.00	\$5,000.00	