

The State of South Carolina



Office of the Attorney General

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March 5, 1993

The Honorable C Gordon McBride
Solicitor, Fourth Judicial Circuit
Darlington County Courthouse, Room 410
Darlington, South Carolina 29532

Dear Solicitor McBride:

In a letter to this Office you questioned the propriety of deducting the expenses for purchase of drugs and payments to confidential informants prior to the distribution of the funds seized in accordance with S.C. Code Ann. Section 44-53-530. Such provision sets forth that forfeiture of "property", which by the definition set forth in S.C. Code Ann. Section 44-53-520 includes seized monies, "must be accomplished" in the manner specified.

As to the payment of confidential informants, subsection (j) of such provision states:

A law enforcement agency may draw from the account an amount necessary to maintain a confidential financial account to be used in the purchase of information or evidence relating to an investigation, to purchase services, or to provide compensation in matters which are confidential and in support of law enforcement activity. The disbursement of funds from the confidential financial account must be made in accordance with procedures approved by the South Carolina Law Enforcement Division (division). All records of disbursement must be maintained and

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made available for audit purposes as provided in this section.

All expenditures from these accounts must be fully documented and audited annually with the general fund of the appropriate jurisdiction.

As referenced, the confidential financial account which is authorized may be used to purchase "information or evidence relating to an investigation ... or to provide compensation in matters ... confidential and in support of law enforcement activity." It appears that such an account could be used for the matters you addressed, the purchase of drugs and payments to confidential informants.

Pursuant to subsection (g) of Section 44-53-530

All forfeited monies and proceeds from the sale of forfeited property ... must be retained by the governing body of the local law enforcement agency or prosecution agency and deposited in a separate, special account in the name of each appropriate agency. These accounts may be drawn on and used only by the law enforcement agency or prosecution agency for which the account was established. For law enforcement agencies, the accounts must be used for drug enforcement activities and for prosecution agencies, the accounts must be used in matters relating to the prosecution of drug offenses and litigation of drug-related matters.

The account referenced in subsection (j) from which the confidential financial account is established would be that account authorized by subsection (g).

As referenced, all forfeited monies and proceeds from the sale of forfeited property must be deposited in the special account authorized by subsection(g). There does not appear to be any allowance for distribution of funds prior to placement in these accounts, such as deductions for expenses for the purchase of drugs and the payments to confidential informants. Therefore, it does not appear that such deductions would be authorized.

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If there is anything further, please advise.

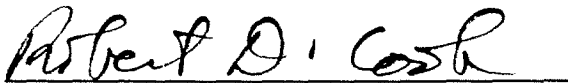
Sincerely,



Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:



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