

State of Florida

Florida Department of Financial Services

**Division of Accounting & Auditing
Bureau of Auditing**

**Audit of Processes
Related to Bail Bond Forfeitures
and Remittances to the State**



July 2015

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SCOPE AND METHODOLOGY

The intent of this audit was to determine if the State is receiving all bail bond forfeiture funds to which it is entitled. The methodology involved the examination of documents associated with five Clerks of Court (Clerks), including documents related to 1) recording of bail bond forfeitures (s. 903.26(2), Florida Statutes); 2) bond forfeiture judgments (s. 903.27, Florida Statutes); 3) actions taken against bond agents and surety companies for unpaid judgments (s. 903.27, Florida Statutes); 4) recording and remitting funds to the State (s. 142.01, Florida Statutes); and 5) remission of bond forfeitures (s. 903.28, Florida Statutes).

Five County Clerk's offices were selected for audit. Audits of the bond forfeiture process were completed on Volusia, Santa Rosa, Hernando, Leon, and Nassau Counties.

FINDINGS, OBSERVATIONS AND CONCLUSIONS

From January 1, 2009 through September 30, 2012, a total of 124,293 surety bail bonds were executed by bond agents. Of that amount, 10,012 bonds (8.06%) were forfeited due to a defendant's failure to appear in court and 379 of the 10,012 (3.80%) bonds were reduced to judgment against bond agents for their failure to pay the forfeited bond in a timely manner. The Bureau audited 410 of the 10,012 bond forfeitures from 2009 through 2012. This sample represents 4.00% of the forfeiture population. The audit noted several findings.

PROPER RECORDING OF BAIL BOND FORFEITURES

Section 903.26(2)(a), F.S., states that "if there is a breach of the bond, the court shall declare the bond and any bonds or money deposited as bail forfeited. The clerk of the court shall mail or electronically transmit a notice to the surety agent and surety company within 5 days after the forfeiture."

Additionally, Section 903.26(2)(b), F.S., states that "failure of the defendant to appear at the time, date, and place of required appearance shall result in forfeiture of the bond. Such forfeiture shall be automatically entered by the clerk upon such failure to appear, and the clerk shall follow the procedures outline in paragraph (a). However, the court may determine in its discretion, in the interest of justice, that an appearance by the defendant on the same day as required does not warrant forfeiture of the bond; and the court may direct the clerk to set aside any such forfeiture which may have been entered."

The audit revealed that it is the practice of Volusia, Santa Rosa, and Nassau Counties to serve notice upon the bondsman when the judge actually signs a certificate or order of forfeiture. The audit further revealed that the date of the judge's order was anywhere between six (6) and 98 days after the defendant failed to appear in court. If the measurement for the five (5) day requirement is based on the date of the certificate or the order of forfeiture, there were three (3) out of 410 (<1%) instances where this requirement was not met (Table 1). Case details can be found in Exhibit A.

Table 1-Proper Recording of Bail Bond Forfeitures

County	Forfeiture Population	Sample Population	Number of Cases where Criteria not Met
Santa Rosa	241	43	1
Nassau	212	49	2
Hernando	1,025	135	0
Leon	3,920	30	0
Volusia	4,614	153	0
Totals	10,012	410	3

If the measurement for the five (5) day requirement was based on the date of the defendant’s failure to appear in court, there were 95 out of 410 (23%) instances where this occurred (Table 2). Case details can be found in Exhibit B.

Table 2-Proper Recording of Bail Bond Forfeitures

County	Forfeiture Population	Sample Population	Number of Cases where Criteria not Met
Santa Rosa	241	43	39
Nassau	212	49	33
Hernando	1,025	135	0
Leon	3,920	30	0
Volusia	4,614	153	23
Totals	10,012	410	95

BOND FORFEITURE JUDGMENTS

Section 903.27(1), F.S., reads, in part, “If the forfeiture is not paid...within 60 days...the clerk of the circuit court...shall enter a judgment against the surety for the amount of the penalty and issue execution.” Because Section 903.27(1), F.S., is silent as to when the 60 day period begins, there appears to be confusion among the Clerks. The statute only provides that a judgment should be entered by the Clerks only when the forfeiture is not paid within 60 days. After taking into consideration and using the order of forfeiture date as the beginning of the 60 day period, the audit revealed that 43 of the 410 (10.48%) bond forfeitures were sent to judgment by the Clerk after the 60 day time period (Table 3). Case details can be found in Exhibit C.

Table 3-Bond Forfeiture Judgments

County	Forfeiture Population	Sample Population	Number of Cases where Criteria not Met
Santa Rosa	241	43	3
Nassau	212	49	5
Hernando ¹	1,025	135	6
Leon ²	3,920	30	24
Volusia	4,614	153	5
Totals	10,012	410	43

ACTIONS TAKEN AGAINST BOND AGENTS

Section 903.27(1), F.S., requires actions to be taken against bond agents when judgments for failure to pay a bond forfeiture have been entered against them. Specifically, after 35 days, a certificate is to be prepared by the Clerk’s Office and furnished to the local sheriff, the Department of Financial Services and the Office of Insurance Regulation, notifying the parties that there is an unpaid judgment against the bond agent. This certificate serves to prevent the bond agent from writing new bonds until the judgment is satisfied. The audit identified 19 instances where a certificate to stop the bond agent from writing new bonds was not prepared (Table 4). Case details can be found in Exhibit D.

Table 4-Actions Taken Against Bond Agents

County	Forfeiture Population	Sample Population	Number of Cases where Criteria not Met
Santa Rosa	241	43	0
Nassau	212	49	4
Hernando	1,025	135	5
Leon ³	3,920	30	8
Volusia	4,614	153	2
Totals	10,012	410	19

¹ Hernando County Clerk responded that the audits should consider Florida Rule of Civil Procedure 1.090(3) which requires the addition of 5 days for mailing.

² Leon County Clerk responded that “while the bond agency must act within 60 days, the statute does not require the clerk to act on a certain day or within a certain time period”.

³ Leon County Clerk responded that “the statutory language is similar to the 60 day requirement in that if not paid within 35 days, the clerk shall prepare a certificate”.

ACTIONS TAKEN AGAINST SURETY COMPANIES

Section 903.27(1), F.S., also requires actions to be taken against surety companies when judgments for failure to pay a bond forfeiture have been entered against them. Specifically, after 50 days, a certificate is to be prepared by the Clerk’s Office and furnished to the local sheriff, the Department of Financial Services and the Office of Insurance Regulation, notifying the parties that there is an unpaid judgment against the surety company. The audit identified eight (8) instances where a certificate to prevent the surety company from issuing new bonds was not prepared (Table 5).

Table 5-Actions Taken Against Surety Companies

County	Forfeiture Population	Sample Population	Number of Cases where Criteria not Met
Santa Rosa	241	43	0
Nassau	212	49	2
Hernando	1,025	135	1
Leon	3,920	30	4
Volusia	4,614	153	1
Totals	10,012	410	8

PROPER RECORDING AND REMITTING OF BOND FORFEITURE MONIES

Clerks hold monies remitted for bond forfeitures in escrow until a two-year period has expired to allow for funds to be on hand in the event remission for the bond forfeiture is ordered. The audit revealed that all of the 24 bond forfeitures held in escrow that had reached the two-year period were remitted to the State of Florida after the two-year period had expired (Table 6).

Table 6-Proper Recording and Remitting of Bond Forfeiture Monies

County	Sample Population	Number Discharged by Payments to Bond Agents	Number of Cases that Reached the End of the Escrow Period
Santa Rosa	43	14	7
Nassau	49	8	1
Hernando	135	0	0
Leon	30	30	1
Volusia	153	18	15
Totals	410	70	24

PROPER REMISSION OF BOND FORFEITURES

Section 903.28, F.S., establishes conditions that must be met in order for bond agents to seek remission of bond forfeitures. Within two years of the date of the forfeiture, a bond agent may apply to the court for remission of the forfeiture. However, once a bond forfeiture has been reduced to judgment, the bond agent forfeits their right to the remission process. The audit identified 25 bond forfeitures that met the criteria for judgment. Of these 25 forfeitures, 23 (92%) were granted remission by the Court and processed by the Clerk’s office (Table 7). Case details can be found in Exhibit F.

Table 7-Proper Remission of Bond Forfeitures

County	Sample Population	Number of Bonds that Met the Criteria for Judgment	Number of Bonds Granted Remission
Santa Rosa	43	3	1
Nassau	49	4	4
Hernando	135	6	6
Leon	30	10	10
Volusia	153	3	3
Totals	410	25	23

EXHIBITS

Exhibit A – Table 1 Case Details-Proper Recording of Bail Bond Forfeitures

Exhibit B – Table 2 Case Details-Proper Recording of Bail Bond Forfeitures

Exhibit C – Table 3 Case Details-Bond Judgment Forfeitures

Exhibit D – Table 4 Case Details-Actions Taken Against Bond Agents

Exhibit E – Table 5 Case Details-Actions Taken Against Surety Companies

Exhibit F – Table 7 Case Details-Proper Remission of Bond Forfeitures

EXHIBIT A – TABLE 1 CASE DETAILS-PROPER RECORDING OF BAIL BOND FORFEITURES

SANTA ROSA COUNTY			
Case Number	Failure to Appear Date	Notice to Bondsman or Notice of Forfeiture to Bondsman Date	Number of Days
08MM1751	5/26/2009	6/10/2009	15

NASSAU COUNTY			
Case Number	Date of Notice or Date Order of Forfeiture Ordered by Court	Date Notice or Order of Forfeiture Processed by Clerk	Number of Days
10MM134	6/29/2010	7/13/2010	14
10CT1170	2/15/2011	2/25/2011	10

EXHIBIT B – TABLE 2 CASE DETAILS-PROPER RECORDING OF BAIL BOND FORFEITURES

SANTA ROSA COUNTY			
Case Number	Notice to Bondsman Date	Notice of Forfeiture to Bondsman Date	Number of Days
08CF328	2/11/2009	3/16/2009	33
08CF617	8/28/2008	1/27/2009	152
08CF1231	1/5/2009	1/20/2009	15
08MM1751	3/19/2009	6/10/2009	83
08CT41221	12/18/2008	1/12/2009	25
09CF10	5/1/2009	5/15/2009	14
09CF877	8/5/2009	8/26/2009	21
09MM1159	10/8/2009	10/30/2009	22
09CT40265	8/6/2009	8/28/2009	22
09CT40835	8/14/2009	9/9/2009	26
09CF278	11/2/2009	1/6/2010	65
09MM602	10/28/2009	3/29/2010	152
09MM1348	5/6/2009	6/8/2009	33
10CF389	9/7/2010	10/28/2010	51
10CF504	7/2/2010	7/13/2010	11
10MM648	8/25/2010	9/23/2010	29
10MM10268	8/26/2010	9/23/2010	28
10CT41636	11/4/2010	12/8/2010	34
07MM12265	3/8/2011	3/24/2011	16
10MM298	2/17/2011	3/17/2011	28
10CF345	6/22/2011	7/15/2011	23
10CF1397	7/14/2010	9/6/2010	54
11CF541	8/5/2011	10/3/2011	59
11MM998	9/14/2011	10/20/2011	36
11MM1010	6/23/2011	8/1/2011	39
11MM1530	10/21/2011	11/17/2011	27
11MM10016	3/23/2011	4/15/2011	23
11CT40444	4/25/2011	8/1/2011	98
11CT41052	8/25/2011	9/21/2011	27
10CT41822	12/1/2011	1/5/2012	35
11CF1538	5/7/2011	6/14/2011	38
11MM1992	1/20/2012	2/3/2012	14
11MM2223	4/16/2012	5/10/2012	24

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11CT41355	5/8/2012	6/29/2012	52
11CT41436	2/16/2012	3/12/2012	25
11CT41893	1/10/2012	1/31/2012	21
11CT41969	1/10/2012	1/31/2012	21
12CT681	8/2/2012	8/16/2012	14
12MM1186	8/17/2012	9/4/2012	18

NASSAU COUNTY			
Case Number	Notice of Forfeiture Date	Order of Forfeiture Date	Number of Days
10MM134	6/16/2010	6/29/2010	13
10CT1170	2/9/2011	2/15/2011	6
12CT23	1/25/2012	2/6/2012	12
12CT288	4/2/2012	4/11/2012	9
10MM481	8/18/2010	5/31/2011	286
11CT614	8/9/2011	10/24/2011	76
09CT141	3/17/2009	3/31/2009	14
11MM708	10/25/2011	11/9/2011	15
09MM1123	12/16/2010	1/6/2011	21
10CT1092	7/22/2011	8/3/2011	12
12MM286	5/1/2012	5/18/2012	17
10CT1302 (bond 1)	4/13/2011	6/2/2011	50
10CT1302 (bond 2)	1/31/2012	2/15/2012	15
11MM451 (bond 1)	9/1/2011	9/16/2011	15
12CT942	8/28/2012	9/12/2012	15
10MM1089	2/1/2011	2/15/2011	14
09CT424	5/12/2009	5/26/2009	14
09CT411 (bond 2)	7/8/2011	7/22/2011	14
09MM794 (bond 1)	9/1/2009	9/15/2009	14
09MM794 (bond 2)	9/21/2010	10/14/2010	23
11CT51	2/4/2011	2/14/2011	10
10MM540	6/29/2011	7/19/2011	20
11CT521 (bond 1)	8/24/2011	9/12/2011	19
10MM1015	9/7/2011	9/23/2011	16
12CT273 (bond 1)	4/2/2012	4/11/2012	9
12CT245	7/13/2012	8/28/2012	46
09CT318	4/15/2009	4/28/2009	13

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09CT246	3/17/2009	3/31/2009	14
03CT1607	9/17/2009	9/29/2009	12
11CT796	11/28/2011	12/13/2011	15
10MM677	2/16/2011	4/21/2011	64
08CT948	9/28/2011	10/13/2011	15
11CT494	11/28/2011	12/13/2011	15

VOLUSIA COUNTY			
Case Number	Date Defendant Failed to Appear	Date Notice or Order of Forfeiture ordered by Court	Number of Days
2009 033315 MMAES	5/15/2009	6/15/2009	31
2009 050829 MMAES	2/16/2010	2/25/2010	9
2010 034057 MMAES	5/10/2010	5/27/2010	17
2011 031982 MMAES	5/3/2011	5/19/2011	16
2009 041260 MMAES	6/15/2011	7/6/2011	21
2009 004038 CFAWS	12/29/2009	1/8/2010	10
2009 032038 MMAES	3/30/2010	4/9/2010	10
2008 014121 MMAWS	1/6/2009	1/15/2009	9
2008 040434 MMAES	7/21/2010	7/30/2010	9
2009 031846 MMAES	6/30/2009	7/8/2009	8
2009 038484 MMAES	6/11/2009	6/22/2009	11
2009 035439 CFAES	11/5/2009	11/13/2009	8
2009 034025 MMAES	8/5/2009	8/14/2009	9
2010 034072 MMAES	4/12/2010	4/20/2010	8
2010 031802 MMAES	6/30/2010	7/13/2010	13
2011 034094 MMAES	4/14/2011	4/25/2011	11
2009 045592 MMAES	6/27/2011	7/6/2011	9
2011 034091 MMAES	5/23/2011	7/13/2011	51
2011 035431 MMAES	6/27/2011	7/12/2011	15
2010 049263 MMAES	2/28/2011	3/16/2011	16
2010 031176 MMAES	1/19/2011	1/28/2011	9
2010 051304 MMAES	1/3/2011	1/13/2011	10
2010 003324 MMAWS	1/3/2011	2/14/2011	42

EXHIBIT C – TABLE 3 CASE DETAILS-BAIL BOND JUDGMENTS

SANTA ROSA COUNTY			
Case Number	Notice to Bondsman Date	Date Forfeiture Paid or Defendant Apprehended	Number of Days
09CF877	8/5/2009	11/25/2009	112
10CT41636	11/4/2010	3/14/2011	130
12CT681	6/26/2012	10/15/2012	111

NASSAU COUNTY			
Case Number	Notice of Forfeiture Date	Payment Date or Surrender of Defendant Date	Number of Days
10MM134	6/16/2010	9/6/2010	82
11MM708	10/25/2011	none at time of review	unknown
09MM1123	12/16/2010	3/31/2011	105
10CT1302 (bond 1)	4/13/2011	12/27/2011	258
09CT411	7/8/2011	10/13/2011	97

HERNANDO COUNTY			
Case Number	Notice Of Forfeiture Date	Date Forfeiture Sent to Judgment	Number of Days
2009 000967 MMAXMX	7/2/2009	9/18/2009	78
2010 000350 CFAXMX	3/16/2010	5/25/2010	70
2010 001176 MMAXMX	5/4/2010	7/14/2010	71
2011 000855 CTAXMX	8/4/2011	10/14/2011	71
2011 002205 MMAXMX	8/2/2011	10/17/2011	76
2011 002587 CFAXMX	1/20/2012	3/29/2012	69

LEON COUNTY			
Case Number	Forfeiture Date	Judgment Date	Number of Days
2009 CF 003639	11/19/2009	1/28/2010	70
2009 CF 002041	10/14/2009	12/17/2009	62
2009 MM 001300	9/22/2009	12/3/2009	70
2009 CF 001905	8/10/2009	1/5/2010	146
2009 MM 003882	8/3/2010	10/13/2010	69
2009 MM 002393	7/9/2009	9/21/2009	73
2010 CF 000021	5/3/2010	7/28/2010	86
2010 CF 002639	10/18/2010	12/21/2010	64
2010 CT 003846	12/13/2011	3/6/2012	84
2010 MM 001643	4/26/2011	7/12/2011	75
2010 MM 002404	8/4/2010	12/21/2010	137
2010 MM 002510	4/26/2011	7/12/2011	75
2010 MM 002709	7/16/2010	9/22/2010	67
2010 MM 003201	8/24/2010	11/3/2010	69
2011 CF 000874	7/11/2011	9/21/2011	71
2011 MM 001501	4/21/2011	7/12/2011	82
2011 MM 002342	12/21/2011	3/6/2012	75
2011 CF 001616	10/5/2011	12/15/2011	70
2011 CF 002570	9/26/2011	12/15/2011	77
2011 MM 000939	3/25/2011	7/12/2011	108
2011 MM 002739	7/12/2011	9/15/2011	63
2011 CF 000195	9/15/2011	12/9/2011	85
2011 CF 000492	9/15/2011	12/15/2011	91
2012 MM 000132	3/21/2012	5/24/2012	63

VOLUSIA COUNTY			
Case Number	Notice of Forfeiture Date	Payment Date or Surrender of Defendant Date	Number of Days
2008 035713 CFAES	2/24/2009	4/29/2009	64
2011 036650 MMAES	7/5/2011	9/7/2011	64
2009 001194 CFAWS	6/9/2009	8/12/2009	64
2009 000258 MMAWS	2/10/2009	4/15/2009	64
2009 035439 CFAES	11/13/2009	1/21/2010	69

EXHIBIT D – TABLE 4 CASE DETAILS-ACTIONS TAKEN AGAINST BOND AGENTS

NASSAU COUNTY			
Case Number	Notice of Forfeiture Date	Payment Date or Surrender of Defendant Date	Number of Days
11MM708	10/25/2011	none at time of review	Unknown
09MM1123	12/16/2010	3/31/2011	105
10CT1302 (bond 1)	4/13/2011	12/27/2011	258
09CT411	7/8/2011	10/13/2011	97

HERNANDO COUNTY			
Case Number	Notice of Forfeiture Date	Payment Date or Surrender of Defendant Date	Number of Days
2011 000855 CTAXMX	10/14/2011	11/28/2011	45
2011 002587 CFAXMX	3/29/2012	5/17/2012	49
2012 000753 CFAXMX	12/26/2012	3/6/2013	70
2012 001221 CFAXMX	11/2/2012	12/12/2012	40
2012 002918 MMAXMX	2/11/2013	3/22/2013	39

LEON COUNTY			
Case Number	Judgment Date	Payment Date or Surrender of Defendant Date	Number of Days
2009 MM 003882	10/13/2010	11/24/2010	42
2009 MM 002393	9/21/2009	10/29/2009	39
2010 CF 000021	7/28/2010	9/23/2010	56
2010 CF 002639	12/21/2010	3/16/2012	446
2010 MM 002404	12/21/2010	4/10/2012	470
2010 MM 003201	11/3/2010	12/23/2010	51
2011 CF 000874	9/21/2011	11/15/2011	55
2012 MM 000132	5/24/2012	7/2/2012	39

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VOLUSIA COUNTY			
Case Number	Notice of Forfeiture Date	Payment Date or Surrender of Defendant Date	Number of Days
2008 035864 CFAES	8/27/2009	none at time of review	unknown
2010 036451 CFAES	2/15/2011	9/2/2011	199

EXHIBIT E – TABLE 5 CASE DETAILS-ACTIONS TAKEN AGAINST SURETY COMPANIES

NASSAU COUNTY			
Case Number	Notice of Forfeiture Date	Payment Date or Surrender of Defendant Date	Number of Days
11MM708	10/24/2011	none at time of review	unknown
10CT1302 (bond 1)	4/13/2011	12/27/2011	258

HERNANDO COUNTY			
Case Number	Notice of Forfeiture Date	Payment Date or Surrender of Defendant Date	Number of Days
2012 000753 CFAXMX	12/26/2012	3/6/2013	70

LEON COUNTY			
Case Number	Notice of Forfeiture Date	Payment Date or Surrender of Defendant Date	Number of Days
2010 CF 000021	7/28/2010	9/23/2010	56
2010 CF 002639	12/21/2010	3/16/2012	446
2010 MM 002404	12/21/2010	4/10/2012	470
2011 CF 000874	9/21/2011	11/15/2011	55

VOLUSIA COUNTY			
Case Number	Notice of Forfeiture Date	Payment Date or Surrender of Defendant Date	Number of Days
2008 035864 CFAES	8/27/2009	None at time of review	unknown

EXHIBIT F – TABLE 7 CASE DETAILS-PROPER REMISSION OF BOND FORFEITURES

SANTA ROSA COUNTY			
Case Number	Bond Amount	Bond Remission Percentage Granted	Lost Revenue to State
08CT41221	\$ 1,000.00	95%	\$ 950.00
		Total	\$ 950.00

NASSAU COUNTY			
Case Number	Bond Amount	Bond Remission Percentage Granted	Lost Revenue to State
10CT1092	\$ 1,502.00	50%	\$ 751.00
12MM286	\$ 2,502.00	unknown	\$ 2,400.00
10MM1089	\$ 5,002.00	unknown	\$ 4,850.00
11CT796	\$ 1,502.00	100%	\$ 1,502.00
		Total	\$ 9,503.00

HERNANDO COUNTY			
Case Number	Bond Amount	Bond Remission Percentage Granted	Lost Revenue to State
2009 000967 MMAXMX	\$ 500.00	50%	\$ 250.00
2010 000350 CFAXMX	\$ 3,000.00	100%	\$ 3,000.00
2010 001176 MMAXMX	\$ 1,000.00	90%	\$ 900.00
2011 000855 CTAXMX	\$ 2,000.00	100%	\$ 2,000.00
2011 002205 MMAXMX	\$ 500.00	100%	\$ 500.00
2011 002587 CFAXMX	\$ 2,000.00	100%	\$ 2,000.00
		Total	\$ 8,650.00

LEON COUNTY			
Case Number	Bond Amount	Bond Remission Percentage Granted	Lost Revenue to State
2009 MM 003910	\$ 500.00	90%	\$ 450.00
2009 MM 006144	\$ 500.00	95%	\$ 475.00
2010 MM 001643	\$ 2,500.00	95%	\$ 2,375.00
2010 MM 002510	\$ 2,500.00	95%	\$ 2,375.00
2011 MM 001501	\$ 1,000.00	95%	\$ 950.00
2011 MM 002342	\$ 2,000.00	100%	\$ 2,000.00
2011 CF 002570	\$ 6,000.00	95%	\$ 5,700.00
2011 MM 002739	\$ 1,000.00	95%	\$ 950.00
2011 CF 000055	\$ 2,500.00	90%	\$ 2,250.00
2011 CF 000195	\$ 1,000.00	90%	\$ 900.00
		Total	\$ 18,425.00

VOLUSIA COUNTY			
Case Number	Bond Amount	Bond Remission Percentage Granted	Lost Revenue to State
2008 035713 CFAES	\$ 1,000.00	95%	\$ 950.00
2009 001194 CFAWS	\$ 2,500.00	85%	\$ 2,125.00
2009 035439 CFAES	\$ 500.00	95%	\$ 475.00
		Total	\$ 3,550.00