



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

June 24, 2024

Andrew W. Stuart II, Esq.  
Attorney, Town of Guntown  
Post Office Box 1266  
Tupelo, Mississippi 38802-1266

Re: Refunding Fines Paid in Error

Dear Mr. Stuart:

The Office of the Attorney General has received your request for an official opinion.

### **Background**

According to your request, a citizen received a letter from a third-party collection agency that contracts with the city of Guntown (“City”) to collect delinquent fines pursuant to Mississippi Code Annotated Section 21-17-1(6). The citizen paid the delinquent fines to the collection agency, who then rendered the applicable funds to the City. It was later discovered that the letter was addressed to the former resident at the payor’s address.

### **Question Presented**

Does the City have the authority to refund fines collected under Section 21-17-1(6) that were paid by mistake?

### **Brief Response**

A municipality has the authority to settle valid claims pursuant to Section 25-1-47 if the municipality determines that it is legally obligated for the claim and the claim is not exempt from liability. Whether the claim for the allegedly mistakenly paid fines described in your request can be settled pursuant to Section 25-1-47 is a factual determination to be made by the governing authorities of the City and is outside the scope of an official opinion.

### **Applicable Law and Discussion**

Pursuant to Section 7-5-25, this office may only opine on prospective questions of law. An Attorney General’s opinion can neither validate nor invalidate past action. MS AG Op., *Magee* at

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\*1 (Aug. 29, 2008). Further, we do not make factual determinations by official opinion. Thus, we offer no opinion on whether the referenced fine was paid in error or whether the citizen has a valid claim against the City as further discussed below.

Section 25-1-47(2) provides:

Any municipality of this state is hereby authorized and empowered, within the discretion of its governing authorities, to pay and satisfy any negotiated settlement of a claim or any judgment, fine, or penalty which may be made, assessed, or levied by any court against any municipal agent, officer, servant, employee, or appointee as a result of any actions of such municipal agent, officer, servant, employee, or appointee while acting as such.

While the authority to settle a claim under Section 25-1-47 “does not require the filing of a lawsuit,” the claim must be a valid one, i.e., both bona fide and just, not exempt from liability, and for which the City is legally obligated. MS AG Op., *Holleman* at \*2 (Nov. 3, 2023) (internal citations omitted). Once the City makes the factual determination “that it is legally obligated for the claim and such claim is not exempt from liability,” the City can refund or settle the claim for the alleged mistakenly paid fines pursuant to Section 25-1-47. *Holleman* at \*2 (internal citations omitted).

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard  
Special Assistant Attorney General