

FILED

OCT 29 2014

MARCI MOSLEY
Circuit Clerk
TEXAS COUNTY, MO

IN THE CIRCUIT COURT OF TEXAS COUNTY, MISSOURI

**STATE OF MISSOURI,
Plaintiff,**

vs.

**JACKIE COOPER,
Defendant.**

Case No. 13TE-CR00016-01

JUDGMENT AND ORDER OF RESTITUTION

On April 8, 2014 the above cause comes on for hearing to determine the amount, if any, remaining owing by Defendant as and for restitution. The State appears through the Texas County Prosecuting Attorney, Michael Anderson. Defendant appears in person and with his counsel, Travis Holthouse. Evidence is heard and the case is reset for hearing additional evidence. The hearing resumes on October 24, 2014. Additional evidence is adduced, and the cause is submitted to the Court and taken under advisement. Thereafter, the Court examines in detail the exhibits introduced into evidence, the pleadings, and applicable law.

The evidence showed that Shell Fleet issued four credit cards to the Township in 2007, cards #1, #2, #3, and #4. A new set of four credit cards were issued to the Township in 2010 and used through 2012. The first card #3, used during the years 2007 through 2009, is referred to in the Shell Fleet billing statements as Card #0003. The successor card #3, used during the years 2010 through 2012, is referred to in the billing statements as Card #9003. For each set of four cards, cards #1 and #2 were put to authorized use by Township employees, and cards #3, and #4, were secretly used without authorization of the Township. Defendant pleaded guilty in the instant case to unauthorized use of one of the Shell Fleet credit cards and voluntarily paid restitution in the amount of \$9,449.69, equal to the amount charged under card #3 for the years 2010 through 2012. The State claims that Defendant owes restitution for card #3 for the years 2007 through 2010 in the amount of \$15,270.29, the amount charged under card #3 for those years.

The evidence showed that card #1, #2, and #4 all had significant purchases of diesel fuel for 2007-2012. However, for card #3, only 4.6 gallons of diesel fuel out of a total of 1,973 gallons of gasoline/fuel were purchased for the year 2007. For the years 2008 through 2012 card #3 was used solely for the purchase of gasoline. Meanwhile, an examination of the monthly billing

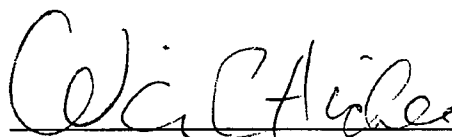
statements introduced into evidence reveals a consistency of use of card #3 before and after the card was reissued at the beginning of 2010. For example, in 2009, the last year of the first card #3, total purchases were made with the card of \$3,922.29. In 2010, the first year of the second card #3, total purchases were made with the card of \$4,162.43. In contrast, 2009 purchases under card #4 were \$8,134.35 and 2010 purchases were \$9,376.79.

Likewise, the pattern of gasoline purchases using card #3 remained similar before and after the issuance of the second card #3 in 2010. For example, the last two billing statements for 2009 show 23 separate purchases using card #3, and each purchase was for less than 18 gallons. In the first two billing statements in 2010, 21 purchases were made using card #3, and only one purchase was for more than 18 gallons. In contrast, card #4 was used to purchase gasoline of a quantity in excess of 18 gallons twelve times during the period covered by the last two billing statements of 2009, and four times during the period covered by the first two billing statements in 2010. Other similarities in the purchasing patterns utilized by the holder of card #3 leads the Court to conclude that it is more probable than not that Defendant used credit #3 both before and after the reissuance of the card in 2010.

The Court thus finds by the preponderance of the evidence that Defendant possessed and utilized the Shell Fleet Credit Card #0003 and its predecessor, #9003, mentioned in the evidence, and that he is responsible for restitution to Texas County Piney Township for the use of the cards during the years 2007 through 2012. Defendant has already provided restitution in the amount of \$9,449.69 for card #0003 for the years 2010 through 2012. He has not provided any restitution for card #9003 for the years 2007 through 2009. The amount of restitution owed under card #9003 for said years 2007 through 2009 is in the amount of \$15,270.29.

Thus, Judgment is rendered in favor of Texas County Piney Township and against Defendant in the amount of \$15,270.29, and Defendant shall pay said amount as a condition of his probation.

Date: October 28, 2014



William E. Hickle, Judge