



Office of the Inspector General
U.S. Department of Justice



Summary of a Review of the Management and Operations of an FBI Recreation Association

This summary describes the findings from an investigation by the Department of Justice (DOJ or Department) Office of the Inspector General (OIG) into alleged financial mismanagement of a Federal Bureau of Investigation Recreation Association (FBIRA). Generally, FBIRAs are “private organizations that, while distinct and separate from the FBI, have been created by employees at FBIHQ and in Field Divisions for the social, welfare, and recreational benefit of FBI employees.” Most FBIRAs sell FBI-embazoned merchandise to raise proceeds to fund events for the employees assigned to their respective Field Divisions. According to FBI policy, the FBI “may provide official recognition and limited support to FBIRAs,” but “such recognition does not imply FBI sponsorship, sanction, endorsement, or acceptance of liability for the actions of any FBIRA or its activities.” FBI Corporate Policy Directive 0465D. There are 55 FBIRAs nationwide.

The OIG initiated this investigation after the FBI Inspection Division conducted a preliminary audit of one of the FBIRAs (FBIRA-1) in May 2015 and reported to the OIG that it discovered FBIRA-1’s president and vice president (both of whom were FBI employees at the time) were using their personal credit cards to purchase inventory for FBIRA-1’s store and then receiving reimbursements from the organization for those purchases. The FBI Inspection Division was concerned that the president and vice president might be purchasing items for their personal use and then obtaining improper reimbursements for these items from FBIRA-1.

A. Relevant Authority

FBI Corporate Policy Directive (CPD) 0465D is the FBI’s current policy for its official recognition and support of FBIRAs. CPD-0465D states that for the FBI to recognize an FBIRA, the FBIRA must, among other things, (i) be a lawful nonprofit organization whose membership is primarily made up of FBI employees; (ii) be managed by a board of at least three FBI employees; and (iii) have a current constitution and bylaws which indicate that it subscribes to minimum standards of fiscal responsibility and employs democratic principles in the nomination and election of officers. CPD-0465D explicitly prohibits FBI managers from using FBIRAs as “alternative funding source[s] for activities in support of official events,” such as award ceremonies and FBI conferences.

In addition, FBIRAs must comply with applicable federal and state not-for-profit rules and laws or risk losing their not-for-profit status.

B. OIG Findings

1. Personal Credit Card Use, Books and Records Failures, and Improper Reimbursements

The OIG found that unlike FBIRA-1’s previous board members, who paid the organization’s expenses by issuing checks drawn on FBIRA-1’s bank account, the president and vice president used their personal credit cards to purchase inventory for FBIRA-1’s store to sell and then obtained reimbursement checks from FBIRA-1 for those purchases. For the period of January 2012 through May 2015, FBIRA-1

reimbursed approximately \$668,000 to its president and vice president. The OIG was able to find appropriate justification for the large majority of these reimbursement payments.

We believe that the decision by the president and vice president to use their personal credit cards to fund the FBIRA-1 store was motivated at least in part by the benefit they received in the form of credit card reward points. The president amassed approximately 350,000 reward points during his tenure as a result of purchases made on behalf of FBIRA-1 and the vice president likewise obtained approximately 309 "reward dollars" for FBIRA-1-related charges on his personal card. They both appeared to use these for personal travel or other purposes. We did not find that the president or vice president's personal obtaining or use of reward points attributable to FBIRA-1 purchases violated any federal or state laws, rules, or FBI policy.

FBIRA-1's president was responsible for maintaining the organization's financial records. The president provided the OIG with a spreadsheet that he said he had created and maintained that purportedly identified FBIRA-1's expenses, including check numbers, the value of the individual transactions that made up the reimbursement checks, the payee associated with each check, and, if the check was a reimbursement to him or the vice president, the identity of the vendor(s) associated with such reimbursements. We found this document to be incomplete and inaccurate.

Although we were able, by reconstructing the records, to determine that most of the reimbursements were justified, we determined that the president received approximately \$20,000 in reimbursements from the FBIRA to which he was not entitled. It appears that the over-reimbursements occurred, at least in part, because of the FBIRA-1's inadequate accounting practices. As a result, the president received duplicate reimbursements from the FBIRA that covered the same purchases.

We found that the process the president and vice president had in place to obtain reimbursements had no safeguards to catch the numerous mistakes he and the vice president made. For example, they both pre-signed FBIRA-1 checks for each other, so that they could each draft their own reimbursements. Consequently, neither one of them was in a position to confirm the accuracy of the reimbursement the other received.

We did not find sufficient evidence to conclude that the president intentionally misappropriated FBIRA funds for his own benefit. We noted that the president discovered some errors himself and reimbursed the FBIRA on his own initiative both before and after the OIG's review was initiated, and recently made further reimbursements upon being informed of our findings.

We also found that the vice president received \$465.20 in duplicate and over-reimbursements, which he has agreed to reimburse to FBIRA-1. Additionally, we found that the vice president received \$6,190.99 in reimbursements from FBIRA-1 for which there is no supporting documentation and we could not confirm

whether these reimbursements were appropriate. The vice president declined to reimburse FBIRA-1 for these unsupported reimbursements. Instead, he claimed that the fact that these funds cannot be reconciled is a record keeping failure that he could not address because he did not keep the records. We disagree. The vice president wrote his own reimbursement checks and should have been able to document the FBIRA-1 related expenses for which he reimbursed himself. Although he occasionally communicated with the president about some reimbursements, those communications substantiated only a portion of the reimbursements the OIG was able to justify. Consequently, while the president shares some responsibility for the unaccounted for \$6,190, the primary fault lies with the vice president because he failed to maintain records supporting his issuance of reimbursement checks to himself.

We further found that the president and vice president each inappropriately obtained reimbursement from FBIRA-1 for interest charged to their personal credit cards. The interest was attributable to both their personal purchases and to purchases they made on behalf of FBIRA-1. The president received \$3,555.82 and the vice president \$917.02 in reimbursement of such interest. They each caused FBIRA-1 to reimburse them for all interest charges on their credit card bills, including interest associated with personal transactions, rather than limiting the reimbursement to interest on transactions made on behalf of FBIRA-1. At best, this practice did not reflect the care required under applicable state law, which requires directors and officers to discharge their duties in good faith and with the care an ordinary prudent person would exercise under similar circumstances.

2. Improper Use of FBIRA-1 Funds

We found that, for the most part, the president and vice president used FBIRA-1 funds consistent with the organization's mission, which was to promote and encourage athletic, social and welfare activity of FBIRA-1's members. This included a donation FBIRA-1 made to a law enforcement endowment fund at the request of an FBIRA-1 member and donations made to FBI employees who worked in FBIRA-1's Field Division who were experiencing illnesses in their families.

On some occasions, however, the president and vice president used FBIRA-1 funds in a manner that was inconsistent with the organization's mission. We found that the president and vice president used the organization's funds to benefit individuals whom they perceived might provide a financial benefit to FBIRA-1. For example, FBIRA-1 paid the entrance fee of an FBI employee to attend an FBI National Academy event and provided uniforms to the Field Division's Firearms Training Unit (FTU) because the individual and the FTU put FBIRA-1 in a position to sell merchandise to non-FBI individuals, such as other law enforcement agents and civilians participating in the FBI's Citizen Academy and FBI Explorers group. In other instances, the president and vice president agreed to use FBIRA-1 funds to pay for retirement events for departing Field Division managers. It was not part of FBIRA-1's mission to use its funds to support unrelated activities in the hope that participants will spend more money at FBIRA-1's store or to pay for parties for departing FBI managers.

In that regard, we found that senior FBI Field Division managers (now retired) violated CPD-0465D by using FBIRA-1 funds to pay for food and drinks in support of official FBI events. For example, FBIRA-1 paid \$2000 to purchase bagels and coffee when the FBI Director visited the Field Division and paid for refreshments for a management meeting with a local community organization. Both the president and vice president of the FBIRA told us that senior FBI officials would pressure FBIRA-1 to fund official events and, according to the vice president, there was a “common expectation” that FBIRA-1 would provide funds to FBI management upon request. It appears that the president and vice president, who were not FBI managers, were placed in a difficult position by senior FBI officials in their local office who requested FBIRA-1 funds for inappropriate or unauthorized uses.

3. Violation of State Law and FBI Policy

We found that FBIRA-1 was operated in contravention of applicable state not-for-profit corporation laws. For example, contrary to state law, FBIRA-1 did not: (i) have a constitution and/or bylaws, (ii) hold or document annual membership meetings, (iii) maintain a full board of directors, (iv) keep accurate books and records, (v) maintain minutes of the proceedings of its board members, or (vi) adopt a required conflict of interest policy.

By violating the state not-for-profit corporation law, the FBIRA-1 did not comply with CPD-0465D because it was not a “lawful not-for-profit corporation” as required by CPD-0465D. Furthermore, in contravention of CPD-0465D, FBIRA-1 did not have a constitution and bylaws and only had two members on its board of directors – the president and vice president. When we discovered these deficiencies, we sent a management advisory notifying the FBI so that it could take steps to address this issue.

4. Inaccurate Form 990s Filed with the IRS

We also determined that a private accountant prepared and the FBIRA-1 president signed tax returns – also known as IRS Form 990s – on behalf of FBIRA-1 that were filed with the Internal Revenue Service (IRS) that contained incorrect non-monetary information about the entity for tax years 2012, 2013, and 2014. These forms stated that FBIRA-1 had four voting members of its governing body when, at most, FBIRA-1 had two voting members. Furthermore, they inaccurately affirmed that the organization was “contemporaneously document[ing] the meetings held or written actions undertaken during the year” by the governing body and “each committee with authority to act on behalf of the governing body.” According to the president and vice president, FBIRA-1 did not have meetings of its board of directors. Further, the president told us that neither he nor the vice president routinely documented the discussions the two of them had regarding their management of FBIRA-1 and that FBIRA-1 did not have any committees.

The president admitted to us that the answers to these questions on the Form 990s for tax years 2012, 2013, and 2014 were not accurate. He asserted that had he reviewed the Form 990s he would have told the accountant that this

information was incorrect. Based on the information available to us, we found insufficient evidence to conclude that the president willfully filed a false return in violation of 26 U.S.C. § 7206 with respect to these statements because there is not sufficient evidence to prove that he fully reviewed the forms or that he willfully provided the false information.¹ However, we believe that FBIRA-1 should consult with an accountant about filing amended Forms 990 for tax years 2012, 2013, and 2014 with the IRS to accurately reflect the information misstated in the tax forms.

5. Misuse of FBIRA-1's Credit Card Terminal

We found evidence that FBIRA-1's president misused the organization's credit card terminal. The president told us that, instead of depositing cash generated from FBIRA-1 sales into the organization's bank account, he deposited it into his own personal account. He then used FBIRA-1's credit card terminal to charge his own personal credit card for the same amount, as if he had made a purchase from the store, which resulted in the credit card company sending the money to the FBIRA bank account. The president told us that he knew he was not purchasing items for himself when he engaged in these transactions. He said he engaged in this conduct for convenience because his own bank had a coin counting machine. We noted that the president also obtained reward points on his personal credit card for every dollar that he processed in this manner.

We were unable to determine the exact amount of funds processed this way, but it was less than the total amount of "purchases" from the store charged to the president's personal credit card between 2012 and 2015, which was \$11,464.11. These transactions represented false statements to the president's credit card issuer because the president was informing his credit card issuer that his credit card was being used for a bona fide sale when, in fact, no merchandise changed hands. Instead, the president kept cash generated by FBIRA-1 for his own use and charged his personal credit card to reimburse the organization for it.

Such transactions were, in effect, cash advances, rather than a bona fide purchase. Had the president obtained the cash advances from his credit card company, he would have been charged an annual percentage rate of 19.24% instead of the 10.24% his card issuer charged for what it believed were bona fide purchases. Again, however, we did not find evidence of specific intent to defraud the credit card issuer through this mechanism.²

C. New FBI Recreation Association Policy

In light of the FBI Inspection Division's findings during its audit of FBIRA-1 in May 2015, the FBI Inspection Division conducted an audit of all FBIRAs nationwide. As a result of the FBI Inspection Division's efforts, the FBI is currently updating its policy regarding FBIRAs. The FBI has informed us that it is looking at options to

¹ The OIG has shared a copy of this summary and the underlying report with the Department's Criminal Division. The Public Integrity Section declined to prosecute this matter.

² See footnote 1.

centralize or regionalize stores. Although the FBI has not yet adopted a new policy, the FBI has indicated that the new policy will give field offices the option to decide whether or not they want to operate an FBIRA; will specifically identify for what purposes FBIRA funds can and cannot be used; and will require each FBIRA to (i) be a lawful not-for-profit, (ii) have 3 board members who are FBI employees, (iii) have a written constitution, and (iv) have written bylaws.

D. Conclusion and Recommendations

We found that FBIRA-1 has been grossly mismanaged since at least 2012. As the active members of the board of directors, the president and vice president were responsible for the many failures of management, including the failure to keep accurate and complete financial books and records of account and the other deficiencies identified above. Subsequent to the initiation of our review, the president and the vice president of FBIRA-1 retired from the FBI.

Although FBIRA-1 is ostensibly independent of the FBI, it operates on FBI property under FBI rules and benefits from its location on FBI property and its association with the FBI name. In light of our findings, the OIG makes the following recommendations:

- 1. The FBI should temporarily shut down the stores operated by the FBIRA-1 until they are in compliance with applicable state law and FBI policy.**

In light of the problems described in this report, the FBI should shut down the stores operated by the FBIRA-1 immediately pending (1) the election of a new board of directors and the adoption of a constitution and bylaws consistent with the requirements of state law and FBI policy, and (2) the receipt of adequate assurances that the new board of directors will manage the store in compliance with CPD-0465D and the FBI's revised policy regarding FBIRAs when it is adopted.

- 2. The FBI should revise and update CPD 0465D, including prohibiting FBIRA Board Members from using personal financial instruments or accounts in connection with FBIRAs, clearly delineating permissible and impermissible uses of FBIRA resources, and requiring accountability for RA funds.**

We recommend that the FBI adopt the new policy it is drafting to ensure that all of the recreation associations are following state and federal not-for-profit laws. We further recommend that the new policy require the FBIRAs to forbid its board members from using personal financial instruments or accounts, such as credit cards or cash, to make purchases on behalf of or in connection with their FBIRAs and, instead, require each FBIRA to pay its expenses through the financial resources in its possession, such as cash on hand, checks, or credit cards or similar lines of credit in the FBIRAs' names. In addition, the new policy should clearly delineate permissible and impermissible uses of FBIRA resources, and should require that the FBIRAs file annual reports with the FBI documenting all

expenditures with sufficient detail to ensure that they are consistent with the authorized purposes of the FBIRAs.

3. The FBI should provide appropriate training and guidance to FBIRA directors and FBI Field Division managers

The FBI's new policy should require any FBI employee who is elected or appointed to an FBIRA board of directors to obtain training or legal guidance relating to the lawful operation of not-for-profit organizations. We further recommend that FBIRA directors be required to complete mandatory annual training on the proper and improper uses of FBIRA funds as delineated in the FBI's new policy. Furthermore, the FBI should ensure that its managers, including ADICs, SACS, ASACs, and Supervisory Special Agents receive periodic reminders on the proper and improper uses of FBIRA funds, to ensure that FBIRA board members are not inappropriately pressured or coerced into financially supporting official FBI functions.

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