



Memorandum



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To: John H. Copeland, Chair, Miami-Dade County Public Health Trust (PHT)
and Members, PHT Board of Trustees

Dr. Eneida Roldan, M.D., President and CEO, Jackson Health System

From:  Christopher Mazzella, Inspector General

Date: February 24, 2011

Subject: OIG Final Report of Investigation Re: *The Personal Use of Credit Card
Reward Points Earned Through the Expenditure of Public Funds by
Foundation Health Services, Inc.*, Ref. IG10-55

Attached please find the Office of the Inspector General's (OIG's) final report regarding the personal use of American Express credit card reward points that were earned by way of Foundation Health Services, Inc. (FHS) purchases paid for with public funds. The OIG investigation determined that Rolando Rodriguez, the President and CEO of FHS, received almost one million Amex rewards points for his personal use and benefit. The FHS-acquired points—\$9,000 in value—are directly attributable to expenses paid for by PHT public funds.

The investigation found no convincing evidence that the FHS Board approved of the arrangement, let alone knew about it. We also found that Mr. Rodriguez' use of the reward points was not reported to the IRS on tax returns filed by FHS. The OIG will be forwarding a copy of this report to the IRS for its independent assessment of any relevant tax matters.

Attachment

cc: Hon. Carlos Alvarez, Mayor, Miami-Dade County
Hon. Joe A. Martinez, Chairman, Board of County Commissioners
and Members, Board of County Commissioners
George M. Burgess, County Manager
Alina Hudak, Assistant County Manager
Charles Anderson, Commission Auditor
Ted Shaw, Chief Transition Officer, Jackson Health System
Mark Knight, Chief Financial Officer, Jackson Health System
Individuals Previously furnished with a Draft Report (under separate cover)

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INTRODUCTION & SYNOPSIS

During the course of the Miami-Dade County Office of the Inspector General's (OIG) audit of Foundation Health Services, Inc. (FHS), it was ascertained that the President and CEO of FHS, Rolando Rodriguez, had redeemed credit card reward points, which were earned by way of FHS purchases paid for with Public Health Trust (PHT) taxpayer dollars, for his personal use and enjoyment.¹

The OIG investigation substantiated the information about Mr. Rodriguez' credit card use. The investigation determined that Mr. Rodriguez routinely redeemed American Express (Amex) reward points to obtain such items as Calloway and Cleveland golf clubs; a \$1,000 Saks Fifth Avenue gift card; gift cards for Gucci—in amounts of \$250 and \$500 per card—as well as for Bloomingdale's, Banana Republic and The Pottery Barn; and ski rentals and lift tickets at the Beaver Creek ski resort in Colorado. In addition, Mr. Rodriguez used the reward points to pay for airfare, lodging, and related expenses incurred during personal, non-business related travel.

The OIG investigation also determined that all of the Amex cards used by FHS employees and consultants were issued pursuant to a main account originally opened by Mr. Rodriguez. Thus, Mr. Rodriguez received the Amex points not only from his own credit card usage, but he also received all the points acquired through all of the FHS-issued credit cards. In addition, because Mr. Rodriguez had also opened an Amex account for FHS' parent organization, Jackson Memorial Foundation (JMF), he was also able to redeem points earned by the use of the cards by JMF employees. Between June 2007 and October 2010, collective Amex credit card activity resulted in the accumulation in excess of seven million reward points for Mr. Rodriguez' Amex account. During that time, Mr. Rodriguez redeemed over 6.8 million of the reward points. We determined that 985,908 of those points, worth over \$9,000—13.2% of the total points accumulated—were earned by the business activities of FHS. (See OIG Schedule A, listing monthly rewards points accumulation and monthly redemption activity.)

In addition, we uncovered no evidence that Mr. Rodriguez' redemption of the reward points was authorized by the FHS Board of Directors. First, none of the Board minutes provided to the OIG made any mention of Mr. Rodriguez' use of the reward points. All of the Board members interviewed as part of the investigation except for Alan Dimond, the Chairman of the Board of Directors for both FHS and JMF, stated that they had never authorized the arrangement. And,

¹ That final audit report, IG09-98, issued on October 28, 2010, can be viewed on the OIG's website at www.miamidadeig.org/reports10/IG09.98FinalReport.pdf.

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although Mr. Dimond stated that he had “personally authorized” Mr. Rodriguez to use the points, he also said that he did not know whether the issue had ever been presented for discussion and approval by the FHS Board.

We also determined that both FHS and JMF failed to report that Mr. Rodriguez’ redemption of the reward points was a part of his compensation on any of the Form 990 federal tax returns they filed with the Internal Revenue Service (IRS).

Lastly, we believe that, at a minimum, the practice of authorizing the monthly credit card payment by the same individual benefiting from those expenditures presents an unsound business practice, particularly when those expenditures are paid for by public funds. At worst, it is an abuse of power to use public funds to derive a personal benefit.

OIG JURISDICTIONAL AUTHORITY

In accordance with Section 2-1076 of the Code of Miami-Dade County, the Inspector General has the authority to make investigations of County affairs and the power to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts, and transactions. The Inspector General is authorized to conduct any reviews, audits, inspections, investigations, or analyses relating to departments, offices, boards, activities, programs, and agencies of the County and the Public Health Trust. The Inspector General shall have the power to review and investigate any citizen's complaints regarding County or Public Health Trust projects, programs, contracts, or transactions. The Inspector General may also investigate alleged violations of the Conflict of Interest and Code of Ethics Ordinance, and may either file a complaint directly with or refer the matter to the Ethics Commission. The Inspector General may exercise any of the powers contained in Section 2-1076, upon his or her own initiative.

The Inspector General shall have the power to require reports from the Mayor, County Commissioners, County Manager, County agencies and instrumentalities, County officers and employees and the Public Health Trust and its officers and employees regarding any matter within the jurisdiction of the Inspector General.

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ENTITIES AND INDIVIDUALS COVERED IN THIS REPORT

Foundation Health Services, Inc.

FHS, established in 2006, is an IRS 501(c)(3) tax-exempt organization and is a wholly-owned affiliate of JMF.² FHS was founded with the encouragement of the PHT to market the Jackson Health System (JHS) in the international healthcare arena and to provide hospitality concierge services to all domestic and international paying patients that are hospitalized at, or are outpatients of, JHS facilities. FHS operations are 100% funded by the PHT.

The members of the FHS Board of Directors are Dr. Gerard Kaiser, the Chief Medical Officer for Jackson Memorial Hospital; Dr. Eneida Roldan, the President and CEO of JHS; Jorge Arrizurieta, also a member of the PHT Board of Directors; Patricia San Pedro, the FHS Board's community representative; and Mike Carricarte, Sr., Eugene Conese, and Mr. Dimond, also members of the JMF Board of Directors.

Rolando Rodriguez

Mr. Rodriguez has been President and CEO of JMF since its founding in 1987. In addition, Mr. Rodriguez has also held the same titles for FHS since its inception in 2006.³ Mr. Rodriguez receives compensation from both organizations—from JMF, as an employee, and from FHS, as a consultant. For the year ending December 31, 2009, Mr. Rodriguez received \$260,225 in Form W-2 reported wage earnings from JMF, and \$72,500 in Form 1099 earnings from FHS (comprised of a \$52,500 consulting fee and a \$20,000 bonus).

Alan Dimond

Mr. Dimond has been a member of the Board of Directors for FHS since its inception in 2006, and became its Chairman in 2008. He is also a member of the JMF Board of Directors and was its Chairman for 2008 and 2009. Mr. Dimond is a practicing attorney and a member of the Florida Bar.

² JMF, like FHS, is an IRS 501(c)(3) tax-exempt organization located in Miami-Dade County, Florida. JMF was created in 1987 by the PHT to be a separate and independent entity, whose mission is to solicit funds and other assets from individuals, firms, foundations, corporations, other entities, governmental bodies, and all segments of the general public to support the PHT.

³ As we discussed in final audit report IG09-98, there has been some confusion in the titles used by Mr. Rodriguez during his stewardship of FHS, but there is no doubt that he has been primarily responsible for the administration of FHS since its inception.

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James Champion

Mr. Champion is a member of the Board of Directors for the JMF and is the Chairman of its Employment Practices Committee (EPC). He is also the founder, president, and CEO of a human resources and management consulting firm. Mr. Champion has never been a Board member of FHS.

Zully Ford

Ms. Ford has served as the Managing Director of Finance for FHS since 2006, although she has always been an employee of JMF. She was originally hired in 1999 as Mr. Rodriguez' secretary, and was elevated to the position of Managing Director of Finance for JMF in 2006. She receives compensation from both JMF and FHS.

INVESTIGATION

Investigation Overview

This investigation was conducted in accordance with the *Principles and Standards for Offices of Inspector General, Quality Standards for Investigations* as promulgated by the Association of Inspectors General.

This investigation is predicated on information developed through an OIG audit that the President and CEO of FHS, Rolando Rodriguez, had redeemed FHS-accumulated credit card reward points for his personal use and enjoyment. Our investigation substantiated the information, and also found that Mr. Rodriguez' redemption of the credit card points had not been authorized by the FHS Board of Directors.

During the course of the investigation, OIG Special Agents reviewed documents including, but not limited to, Amex credit card records⁴, FHS records including minutes of its Board meetings, JMF records, IRS tax filings, and other records and materials obtained as a part of the related OIG audit of FHS. In addition, OIG Special Agents also interviewed current and former board members and employees of FHS and JMF, including Mr. Champion, Ms. Ford, Mr. Dimond, and four other members of the FHS Board, and Mr. Rodriguez.

⁴ Amex produced the records in response to subpoenas issued by the OIG pursuant to Section 2-1076(d)(3) of the Miami-Dade County Code, which empowers the OIG to "subpoena witnesses, administer oaths and require the production of records."

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FHS' American Express Cards

As part of the investigation, OIG Special Agents ascertained the process whereby Mr. Rodriguez was able to personally redeem reward points earned from FHS expenditures.

1. The FHS Account Was Opened by Mr. Rodriguez

Mr. Rodriguez, in his individual capacity, opened the FHS Amex credit card account in November 2006, and additional cards were later issued under the main account. The Amex invoices for the FHS accounts bear the headings "Rolando D. Rodriguez FHS."

2. FHS Amex Cards Were Issued to FHS Employees and Consultants for Business Use

As reported in the OIG audit, over \$1.1 million was charged to the FHS Amex cards from November 2006 through February 2010. Aside from Mr. Rodriguez, cards were issued to Ms. Ford and select FHS employees and a medical director for use as related to FHS activities. Mr. Rodriguez, in his role as CEO of FHS, authorized the payments to Amex. All the Amex payments were made using PHT public funds.

3. The Credit Card Reward Points Were Used by Mr. Rodriguez for Personal Purposes

OIG Special Agents conducted a review of Amex records reflecting Mr. Rodriguez' accumulation, redemption, and use of Amex credit card reward points. (See OIG Schedule A.) In summary, we determined that for the period June 2007 through October 2010:

- Mr. Rodriguez' Amex rewards account was credited with a total of 7,465,408 reward points.
- Of that total, 7,072,351 reward points, over 94% of them, were earned through the business activities of FHS and JMF: 985,908 from FHS, and 6,086,443 from JMF. All of these points were comingled into one rewards account from which Mr. Rodriguez redeemed the points.
- Mr. Rodriguez used a total of 6,670,200 of the reward points to purchase goods and services including golf clubs, a bicycle, gift cards, ski rentals, and ski lift tickets. Of that total, he also transferred 3,357,000 points to his One Pass account with Continental Airlines;

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565,000 points to his SkyMiles account with Delta Airlines; 266,500 points to his True Blue account with Jet Blue Airlines; and 185,000 points to his Hilton Honors account with Hilton Hotels.

There is No Convincing Evidence that the FHS Board Authorized Mr. Rodriguez' Retention and Personal Use of the Amex Points

FHS provided the OIG with all of its Board Meeting Minutes from FHS' inception in 2006 through September 2010. The OIG's review of those minutes revealed absolutely no mention of Amex rewards points or Mr. Rodriguez' use of any credit card reward points. The only set of minutes that made any reference to Mr. Rodriguez' compensation, those dated September 30, 2010, briefly described the renewal process for his contract, but made no mention of any compensation dollar amounts, much less any mention of his redemption of Amex reward points as a part of his compensation.

Interview Summaries Regarding Mr. Rodriguez' Use of the FHS-Accumulated Amex Reward Points

1. Interview of James Champion

As part of the investigation, OIG Special Agents interviewed Mr. Champion. He stated that he serves as Chairman of the EPC, which provides direction to JMF and FHS on issues involving human resources and employee relations for organizational effectiveness. He also stated that the EPC provides recommendations for compensating JMF employees, but that it does not make similar recommendations for FHS employees.

Mr. Champion stated that as regards to Mr. Rodriguez, the EPC only provided compensation recommendations concerning JMF, and that it was his understanding that FHS had its own board to address compensation issues. Mr. Champion reiterated several times throughout the interview that he had no involvement in FHS matters.

Mr. Champion stated that his salary recommendation was first approved by the JMF executive committee and later by its full board. He stated that there was never any discussion by the EPC, the JMF executive committee, or the JMF Board of Directors regarding American Express points being considered or authorized as compensation by either JMF or FHS to Mr. Rodriguez. He also surmised that Mr. Dimond might have the authority to approve additional compensation to include the reward points,

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beyond the purview of the EPC. However, he stated, he himself would not have approved the use of credit card reward points for personal use.

Mr. Champion was shown a copy of a memorandum dated April 7, 2008 (Exhibit 1), purportedly authored by him, and addressed to Alan Dimond and Eugene Conese, titled "Rolando Rodriguez Performance Bonus." The memorandum contains a one-line notation at the bottom of the page that "American Express points earned are given to Rolando." Mr. Champion initially stated that he had no independent recollection of the document, but after examining it for several minutes, he stated that he must have written it. Mr. Champion further stated that he now recalled that the information had been requested by Mr. Dimond and Mr. Conese, the Chairman of the FHS Finance Committee. He stated that he received the information contained in the document from Ms. Ford, the FHS Managing Director of Finance. He further stated that the memorandum was not a recommendation, but rather a description of the compensation package for Mr. Rodriguez that was already in place.

2. *Interview of Zully Ford*

OIG Special Agents also interviewed Ms. Ford, who is a JMF employee. She stated that Mr. Rodriguez originally hired her as his executive assistant in 1999, and appointed her to the position of Managing Director of Finance for JMF in 2006. She further stated that when FHS was started in 2006 as a subsidiary of JMF, she also assumed the duties of Managing Director of Finance for FHS.

Ms. Ford stated that when she began work at JMF, it already had an Amex credit card account whose primary card member was Mr. Rodriguez. She also stated that it was her understanding that Mr. Rodriguez had allowed the use of his personal credit to obtain Amex cards to be used for organizational expenses. Ms. Ford stated that although she processes financial transactions and performs financial reviews, she has no say in how credit is obtained for either JMF or FHS.

With regard to the establishment of FHS' arrangement with Amex, Ms. Ford stated that in 2006, the Chief Operating Officer for FHS asked Mr. Rodriguez to use his credit to open an account for business expenses, particularly for business travel expenses. She stated that this request was made because FHS had just been incorporated and had no established

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credit.⁵ Ms. Ford also stated that FHS subsequently obtained a Visa credit account, for which Mr. Rodriguez was also the guarantor, but that the account had a credit limit of \$50,000 and did not generate any reward points. She further stated that the Visa account was insufficient for FHS' operations, so that it had to continue using the Amex cards.

Ms. Ford stated that in response to the OIG audit, she had previously emailed the OIG a written statement which described the manner in which FHS approved Mr. Rodriguez' redemption of the reward points for personal gain. She then identified a memorandum she typed on JMF letterhead addressed to the OIG auditor, dated March 25, 2010, as being the written statement she had described. (Exhibit 2) In her memorandum, Ms. Ford stated that "[a]ll FHS points are accrued to Rolando's master American Express Membership Rewards account. This issue was reviewed and recommended by the JMF Chairman of the Employment Practice Committee and approved by the FHS Chairman."

After OIG Special Agents informed Ms. Ford that the OIG had not, in fact, received the memorandum from her, she checked her computer, returned, and stated that she could not find any record of ever having sent the memorandum via email to the OIG.⁶

3. *Interview of Alan Dimond*⁷

Mr. Dimond stated that when FHS was created, the company had no established credit and Mr. Rodriguez used his personal credit "at great risk to himself" to open the FHS business account with Amex. Mr. Dimond then stated that in return, Mr. Rodriguez was allowed to redeem whatever points were generated from the use of the credit cards. He also stated that due to the shortages in government funding, Mr. Rodriguez' credit was "substantially at risk" if FHS could not pay its expenses.

Mr. Dimond stated that, in his opinion, Mr. Rodriguez does not receive an appropriate salary, particularly with his job requiring him and his wife to attend various black tie events in which his wife needs to be "properly attired in evening dresses which tend to be very expensive." Mr. Dimond

⁵ The OIG investigation did not undertake to canvass the various credit card companies about eligibility for corporate credit cards, or whether such cards allow the corporation to earn reward points and redeem them for corporate purposes.

⁶ OIG Special Agents did not obtain a copy of the memorandum until January 14, 2011. Ms. Ford's computer records did reflect that the memorandum was drafted on March 25, 2010, but apparently never sent.

⁷ Mr. Dimond's interview was conducted via telephone. He refused to meet in person with OIG Special Agents, and also refused to answer any questions relating to JMF.

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also stated that the redemption of the reward points was intended as additional compensation to supplement Mr. Rodriguez' salary.

Mr. Dimond further stated that Mr. Rodriguez' redemption of the reward points was a common business practice in the private sector. As such, Mr. Rodriguez was "entitled to spend the points on whatever he wanted" and the items obtained with the points were "his business." Mr. Dimond acknowledged that since at least 2008, he has been "constantly aware" that Mr. Rodriguez was redeeming reward points that were earned by FHS spending activity. Mr. Dimond reiterated that, in his opinion, Mr. Rodriguez was entitled to use the points.

Mr. Dimond stated that he personally authorized Mr. Rodriguez to use the points and believed that other FHS board members may have possibly authorized it as well. He also stated that he was not certain if the issue was ever presented for discussion and approval by the full board, but he believed that the authorization was put in writing "somewhere" at some point.

4. Interview of Rolando Rodriguez

Mr. Rodriguez stated that his compensation from JMF and FHS is determined by Mr. Champion, the Chairman of the JMF Employment Practices Committee, and Mr. Dimond, the Chairman of the Board of Directors of JMF and FHS. He stated that their compensation recommendation is then negotiated through his attorney and the attorneys representing JMF. Mr. Rodriguez also stated that when determining and approving his compensation, the Employment Practices Committee and the JMF Board of Directors meet in closed session, and that no detailed minutes of that session are produced.

Mr. Rodriguez stated that when FHS was created, it was unable to obtain credit. Mr. Rodriguez stated that he offered the use of his personal credit with Amex to open a credit card account for FHS and, in doing so, placed that credit at risk. He further explained that because he used his Amex membership rewards account to open the FHS account, he believed that, in return for opening the account, he would be entitled to use the reward points earned by FHS business activities.

Mr. Rodriguez initially stated that the FHS board agreed to this arrangement. In response to additional questions put by OIG Special Agents, Mr. Rodriguez then stated that this was a "trivial" issue that may not have been formally presented to the FHS Board of Directors, but

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“everyone” on that board was aware that he was entitled to this compensation. Mr. Rodriguez declined to answer any questions regarding any credit card arrangements he may have with JMF.

Mr. Rodriguez confirmed that he redeemed the points for personal use by purchasing such items as ski lift tickets, Gucci and Pottery Barn gift cards, and golf clubs. He further stated that he also purchased a bicycle for his son. Mr. Rodriguez also stated that in addition to the items he purchased, he also used the reward points to reimburse costs for airline tickets and hotel stays that he incurred during personal travel. He stated that he did not give any gift cards or other items obtained with the points either to JMF or FHS employees or board members, or to any Jackson Memorial Hospital staff.

Mr. Rodriguez stated that he contacted Amex and was advised that in accordance with the terms of his account, reward points are provided to the individual account holder and not to a corporation. Mr. Rodriguez further stated that Amex also advised him that an individual account holder cannot be forced to redeem reward points for business purposes. When asked if there was any prohibition on the use of the reward points to offset FHS business expenses, particularly if the credit card invoices were paid by FHS, Mr. Rodriguez stated that although there was no prohibition, he was the primary account holder and was solely entitled to the points as part of his compensation.⁸

5. Interviews of Other FHS Officials

As a part of the investigation, every member of the seven-member FHS Board of Directors was afforded an opportunity to be interviewed. Five of the board members—Mr. Dimond and four others—were interviewed.⁹

⁸ Shortly after the interview, Mr. Rodriguez emailed OIG Special Agents what appears to be an excerpt from an Amex brochure. The language of the excerpt states, in part, “[t]he program is intended to be a service provided to an individual, not a company.” The excerpt then states that Amex maintains that it considers it “fraudulent and abusive” for a company to compel a card member to redeem points for company use. (Exhibit 3) Mr. Rodriguez’ unsolicited provision of the brochure to the OIG appears to be an attempt to buttress his claim that he had the right to personally use the points, since Amex presumably would not condone the use of the points for corporate good, even by a publicly funded non-profit organization. However, if the brochure’s admonishment is, in fact, applicable, it only accentuates the impropriety of a credit relationship wherein FHS, to its detriment, is denied the institutional enjoyment of the rewards points, while its CEO is personally enriched by them.

⁹ Two of the FHS Board members who were interviewed, Mr. Arrizurieta and Ms. San Pedro, recently resigned from the board, and have not been replaced. Board members Mike Carricarte, Sr. and Mr. Conese declined to be interviewed.

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Dr. Kaiser, Mr. Arrizurieta, and Ms. San Pedro each stated that they did not know that Mr. Rodriguez had been authorized to redeem the Amex reward points. Dr. Kaiser and Mr. Arrizurieta also stated that they would not have approved of such an arrangement had they been made aware of it. Ms. San Pedro stated that because she was never aware of the arrangement, she was not comfortable offering an opinion regarding its propriety. Dr. Roldan stated that she had recently learned that Mr. Rodriguez was receiving the Amex reward points, but further stated that she would not have approved of such an arrangement if she had previously been made aware of it.

Mr. Rodriguez' Use of the Reward Points Was Not Reported to the IRS

OIG Special Agents conducted a review of the IRS Forms 990, informational tax returns that are required to be filed by all 501(c) corporations and are available for public inspection, filed by FHS and JMF for tax years 2006, 2007 and 2008.¹⁰ Although the Forms 990 required that Mr. Rodriguez' compensation be reported, none of the returns identified his receipt of the Amex reward points. The investigation also learned that neither FHS nor JMF provided any information about his receipt of the points to their tax return preparers.

The OIG will be forwarding a copy of this report to the IRS for its independent assessment of the issues raised by the apparent failure of FHS and JMF to comply with the Form 990 reporting requirements and any other relevant tax matters.

RESPONSES TO THE DRAFT REPORT & OIG COMMENT

This report, as a draft, was provided to Mr. Rodriguez, Mr. Dimond, Mr. Champion, Ms. Ford, and to the PHT/Jackson Health System President and CEO, Dr. Roldan, for their discretionary written responses. The OIG received responses from Mr. Rodriguez' attorney, Mr. Dimond (one on behalf of FHS and one on behalf of JMF), and Dr. Roldan, which are attached and incorporated herein as Appendix A through D, respectively. We appreciate receiving the responses.

Mr. Rodriguez' attorney and Mr. Dimond both raised legal challenges to the manner in which the OIG obtained and used the Amex records, which we will address before evaluating the merits of their individual responses. First, they alleged that the OIG violated numerous provisions of the Right to Financial Privacy Act (RFPA), 12 U.S.C. §§ 3401 *et seq.*, by obtaining the Amex records

¹⁰ Neither organization has yet filed Forms 990 for tax year 2009.

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without Mr. Rodriguez' permission. However, their reliance on *any* section of the RFPA is entirely misplaced, because it does not apply to any state and local agencies. To the contrary, the RFPA's protections are triggered only when *federal* government authorities seek such records. Indeed, 12 U.S.C § 3401, which Mr. Rodriguez' attorney cites generally in support of his claims, plainly defines, at § 3401(c), the "Government authority" seeking such records to be "any agency or department of the *United States*, or any officer, employee, or agent thereof...." (Emphasis added.)¹¹

Mr. Rodriguez' attorney and Mr. Dimond also claimed that the OIG's receipt of the Amex records violated Florida law, and infringed upon Mr. Rodriguez' privacy rights. In support of their claim, they again asserted that the violations occurred because Mr. Rodriguez did not personally consent to the disclosure of the records.¹² However, that claim has been explicitly repudiated by the Florida Supreme Court. In the case of Winfield v. Division of Pari-Mutual Wagering, Department of Business Regulation, 477 So.2d 544 (Fla. 1985), the Florida Supreme Court refused to extend the constitutional right of privacy guarantee of Article I, Section 23 of the Florida Constitution to an individual's bank records subpoenaed by a state governmental agency. The Winfield Court further held that in light of the governmental interest in conducting effective investigations, "predisclosure notification by a bank to its customers should not be and is not mandated by article I, section 23." Winfield, 477 So.2d at 548.¹³

Finally, they claimed that the OIG is prohibited from disclosing the Amex records. However, under Florida's public record law, documents obtained through subpoenas that were properly issued by a public agency are considered to be public records, subject to disclosure absent any applicable exemption. Hill v. Prudential Insurance Company of America, 701 So.2d 1218 (Fla. 1st DCA 1997). Mr. Rodriguez' attorney and Mr. Dimond have not suggested any statutory

¹¹ In fairness, we note that federal courts have occasionally found the need to remind litigants of this most basic fact. See, e.g., Sornberger v. First Midwest Bank, 278 F.Supp.2d 935, 938 (C.D. Ill. 2002)(the RFPA applies only to "federal actors" requesting records), citing United States v. Zimmerman, 957 F.Supp 94, 95 (N.D. W.Va. 1997) (the RFPA "does not apply to state and local governments or to private parties" and, therefore, exempts them from any disclosure restrictions imposed upon federal agencies. The Court went on to observe that "[d]isclosure of financial records to state and local governments is regulated, if at all, by state law.")

¹² In light of Mr. Rodriguez' persistent declaration that his Amex account was openly and transparently used by FHS for the corporate good, we are strongly tempted to debate any notion that he did not waive a personal right of privacy to the records; that, in effect, he simply cannot have it both ways. However, as explained below, our analysis need not reach that issue.

¹³ See also Shaktman v. State, 533 So.2d 148 (Fla. 1989), where the Supreme Court applied its Winfield analysis in deciding that the government could gather telephone records through the use of a pen register without notifying the customer.

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exemption that shields the Amex records from public view, and the OIG is satisfied that none exists.¹⁴

1. *Response of Mr. Rodriguez' Attorney*

Mr. Rodriguez' attorney also reiterated the assertions made by his client and Mr. Dimond, in their interviews with OIG Special Agents, that Mr. Rodriguez' redemption of the Amex reward points was an authorized part of his FHS compensation package. In addition, Mr. Rodriguez' attorney claimed that the OIG erroneously concluded that Mr. Rodriguez failed to disclose his redemption of the reward points to the IRS. Mr. Rodriguez' attorney cited an IRS bulletin regarding the assessment of individual taxpayer liability in connection with the use credit card reward points in support of his claim.

Mr. Rodriguez' personal tax obligations have never been a focus of this investigation, and his personal IRS returns have not been obtained or reviewed by OIG Special Agents. The sole tax-related issue arising from the investigation has been the OIG's concern that the IRS Forms 990 filed by *FHS* and *JMF* failed to identify Mr. Rodriguez' receipt of the Amex reports as a part of his compensation, which is required to be described on the returns. The reference to the IRS bulletin, which relates to personal taxpayer liability, allays none of our concerns.

2. *Response of Mr. Dimond (FHS)*

Mr. Dimond described the "awarding" of the Amex points to Mr. Rodriguez as a "perk" which created no additional expense to FHS. He cited "industry practices" that "routinely provide points to the card member as a perk, even when the business pays the expense." Mr. Dimond also stated that FHS auditors were aware of Mr. Rodriguez' use of the points, although he declined to attached any excerpts from their audit report in support of his claim. However, he did attach a copy of the IRS bulletin referred to by Mr. Rodriguez' attorney. He also attached a document that appears to contain the same language as the Amex brochure excerpt previously provided by Mr. Rodriguez (Exhibit 3).

In general, Mr. Dimond's response provides the same position that FHS has taken in responding to the OIG's earlier audit findings—that FHS' practices are consistent with private business industry practices. This

¹⁴ The final version of this report does not actually publish the records, but merely summarizes them.

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
*Final Report Re: The Personal Use Of Credit Card Reward Points
Earned Through the Expenditure of Public Funds by Foundation Health Services, Inc.*

position, however, is untenable due to the one glaring fact that Mr. Dimond continues to ignore—the fact that FHS is 100% publicly funded. As such, Mr. Dimond’s assertion that Mr. Rodriguez is entitled to a \$9,000 “perk” funded by the taxpayers is unconvincing.

3. Response of Mr. Dimond (JMF)

Mr. Dimond stated again, this time on behalf of JMF, that the Amex card arrangement was authorized and proper. Mr. Dimond noted, however, that the Amex account has now been closed.

4. Response of Dr. Roldan

In her response, Dr. Roldan stated that Ted Shaw, chief transition officer of Jackson Health System, interviewed Mr. Dimond and Mr. Rodriguez about the credit card issue. Dr. Roldan’s response then stated, “FHS informed Mr. Shaw that Mr. Rodriguez’s use of the organization’s American Express credit card, sponsored by Rolando Rodriguez, was within the approved policy of FHS. This was confirmed by Mr. Dimond and Mr. Rodriguez.” Dr. Roldan also stated that use of the FHS credit card ceased in November 2010, and has now been canceled.

Despite the phrasing of Dr. Roldan’s response that “FHS informed Mr. Shaw” that Mr. Rodriguez’ use of the Amex card use was approved, the response sheds no additional light indicating that the FHS board knew of the arrangement, much less approved of it. To the contrary, the only sources the response cites for the conclusion that Mr. Rodriguez’ conduct was within the approved policy of FHS are Mr. Dimond and Mr. Rodriguez. Accordingly, Dr. Roldan’s discretionary response does not alter the findings we reached in the draft version of this report.

CONCLUSIONS

The investigation determined that PHT-funded Amex credit card payments resulted in the accumulation of almost one million Amex rewards points. These points accrued to Mr. Rodriguez’ personal use and benefit. And although the FHS-acquired points—\$9,000 in value—accounted for only 13.2% of the total accumulated by Mr. Rodriguez during the period under review, this portion of the accumulated points is directly attributable to expenses paid for by public funds. In short, the public paid the bills and he got the points.

The investigation could not determine that his redemption of the reward points was authorized by FHS. In fact, there is no convincing evidence that the FHS

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
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Board approved of the arrangement, let alone knew about it. Mr. Dimond stated that he personally authorized their use by Mr. Rodriguez; however, Mr. Dimond's claim does not appear to have been reduced to writing and, in any event, does not represent formal action by the FHS Board of Directors.

Furthermore, at a minimum, the practice of authorizing the monthly credit card payment by the same individual benefiting from those expenditures presents an unsound business practice, particularly when those expenditures are paid for by public funds. At worst, it is an abuse of power to use public funds to derive a personal benefit. Additionally, Mr. Rodriguez' own suggestion that Amex would not have allowed FHS to redeem the reward points for a corporate benefit underscores the fact that FHS never should have entered into such an arrangement with him in the first place.

Due to transitional activities currently underway involving FHS and the PHT, and given the fact that use of the FHS Amex card ceased in November 2010, the OIG will not make any recommendations at this juncture.

**IG10-55 OIG SCHEDULE A
AMERICAN EXPRESS REWARD POINTS**

Line Number	Monthly Statement Period	Points Earned - Rodriguez Personal Account	Points Earned - FHS Business	Points Earned - JMF Business Platinum	Total New Points Earned	Points Transferred or Redeemed	Items Redeemed for Merchandise or Travel
1	June 2007	7,631	31,753	130,768	170,152	495,000	One Pass-300,000; One Pass-150,000; SkyMiles-45,000
2	July 2007	5,782	36,753	57,867	100,402	200,000	One Pass-200,000
3	August 2007	8,614	37,883	234,399	280,896	62,500	Tissot PRC200 - 42,500; SkyMiles-20,000
4	September 2007	8,903	20,159	248,414	277,476	340,000	One Pass-340,000
5	October 2007	6,072	65,594	102,962	174,628	230,000	One Pass-230,000
6	November 2007	8,501	65,264	167,525	241,290	210,700	Bose ® 151 ® SE Environmental Speaker System-Black-28,000; Montblanc Limited Edition Greta Garbo Ball Point Pen-57,700; Callaway ® Golf Warbird XTT Golf Bag-Black-13,000; Callaway® Golf X-20 Eight Piece Iron Set 3-PW-Graphite-112,000
7	December 2007	10,194	139,620	117,639	267,453	117,000	Tissot T-Touch Titanium-92,000; SkyMiles-25,000
8	January 2008	9,219	-36,691	109,944	82,472	387,800	One Pass-240,000; Montblanc StarWalker Resin Line Ballpoint Pen-35,800; One Pass-25,000; Hilton HHonors-62,000; TrueBlue-25,000
9	February 2008	12,417	15,181	152,397	179,995	0	None
10	March 2008	7,855	25,349	338,118	371,322	0	None
11	April 2008	no rewards statement	25,276	120,718	145,994	325,000	TrueBlue - 25,000; One Pass - 300,000
12	May 2008	no rewards statement	18,311	217,176	235,487	0	None

**IG10-55 OIG SCHEDULE A
AMERICAN EXPRESS REWARD POINTS**

Line Number	Monthly Statement Period	Points Earned - Rodriguez Personal Account	Points Earned - FHS Business	Points Earned - JMF Business Platinum	Total New Points Earned	Points Transferred or Redeemed	Items Redeemed for Merchandise or Travel
13	June 2008	no rewards statement	6,254	70,556	76,810	713,000	One Pass - 340,000; 3 each \$500 Gucci Gift Cards - 150,000; \$1000 Saks Fifth Avenue Gift Card - 100,000; Hilton Honors - 123,000
14	July 2008	no rewards statement	16,191	175,251	191,442	135,000	SKyMiles - 135,000
15	August 2008	0	12,060	136,807	148,867	31,500	Schwinn 26" Southport 7 Speed Cruiser-Men's - 31500
16	September 2008	9,400	8,271	355,402	373,073	0	None
17	October 2008	7,296	17,517	218,283	243,096	175,000	\$500 Gucci Gift Card-50,000; \$500 Neiman Marcus Gift Card-50,000; \$250 Gucci Gift Card-25,000; \$500 Gucci Gift Card-50,000
18	November 2008	6,169	36,435	155,815	198,419	43,000	One Pass - 43,000
19	December 2008	21,305	108,559	179,696	309,560	314,000	Pentax 8x25 DCF SW Binocular-24,000; 11 each - \$250 Pottery Barn Gift Cards-25,000 each (275,000 total); Pentax ® XCF 10x50 Full-Size Porro-Prism Binocular-15,000; total: 314,000
20	January 2009	21,864	32,363	90,048	144,275	200,000	One Pass-200,000
21	February 2009	14,210	10,896	223,460	248,566	333,200	One Pass-200,000; \$100 Pottery Barn eGift Card-10,000; 4 each \$250 Pottery Barn eGift Cards-25,000 each (100,000 total); Dunhill Sidecar Black Ballpoint Pen-23,200
22	March 2009	12,160	16,194	210,471	238,825	14,000	Skagen Denmark Men's Sport Collection Watch-14,000

**IG10-55 OIG SCHEDULE A
AMERICAN EXPRESS REWARD POINTS**

Line Number	Monthly Statement Period	Points Earned - Rodriguez Personal Account	Points Earned - FHS Business	Points Earned - JMF Business Platinum	Total New Points Earned	Points Transferred or Redeemed	Items Redeemed for Merchandise or Travel
23	April 2009	12,354	5,148	79,934	97,436	725,000	4 each \$100 Banana Republic Gift Card 10,000 each (40,000 total); \$250 Smith & Wollensky Gift Card-25,000; 2 each \$100 Pottery Barn eGift Cards-10,000 each (20,000 total); \$250 Pottery Barn eGift Card-25,000; One Pass-250,000; SkyMiles-240,000; SkyMiles-100,000; TrueBlue-25,000
24	May 2009	9,343	4,936	179,860	194,139	25,000	\$250 Smith & Wollensky Gift Card-25,000
25	June 2009	10,639	3,688	178,774	193,101	0	None
26	July 2009	12,361	4,280	165,973	182,614	0	None
27	August 2009	16,690	13,030	166,312	196,032	150,000	TrueBlue-25,000; 5 each Bloomingdales \$200 Gift Cards-20,000 each (100,000 total); TrueBlue-12,500; TrueBlue-12,500
28	September 2009	6,708	17,436	230,187	254,331	25,000	TruBlue-25,000
29	October 2009	17,460	31,745	202,618	251,823	288,000	24 each Beaver Creek 1-Day Adult Lift Tickets-8,000 each (192,000 total); 24 each Beaver Creek 1-Day Ski/Snowboard Rental-4,000 each (96,000 total);
30	November 2009	6,590	36,069	69,847	112,506	50,000	TrueBlue-25,000; TrueBlue-12,500; TrueBlue-12,500
31	December 2009	10,783	8,176	118,328	137,287	80,000	4 each Bloomingdale's \$200 Gift Card-20,000 each (80,000 total)
32	January 2010	17,482	615	30,576	48,673	424,000	TrueBlue-34,000; One Pass-240,000; 6 each \$250 Pottery Barn eGift Cards-25,000 each (total 150,000)

**IG10-55 OIG SCHEDULE A
AMERICAN EXPRESS REWARD POINTS**

Line Number	Monthly Statement Period	Points Earned - Rodriguez Personal Account	Points Earned - FHS Business	Points Earned - JMF Business Platinum	Total New Points Earned	Points Transferred or Redeemed	Items Redeemed for Merchandise or Travel
33	February 2010	6,737	3,846	75,627	86,210	55,000	\$250 Pottery Barn eGift Card-25,000; \$50 Crate and Barrel Shop Card-5,000; \$250 Crate and Barrel Shop Card-25,000
34	March 2010	10,379	6,450	69,442	86,271	280,000	Executive Club-280,000
35	April 2010	10,280	-1,822	85,625	94,083	0	None
36	May 2010	10,578	2,320	36,649	49,547	0	None
37	June 2010	12,150	4,651	96,867	113,668	32,500	TrueBlue-32,500
38	July 2010	15,488	4,440	168,601	188,529	0	None
39	August 2010	6,756	9,902	72,874	89,532	139,000	One Pass-59,000; One Pass-80,000
40	September 2010	10,624	58,282	112,864	181,770	160,000	One Pass-160,000
41	October 2010	12,063	63,524	131,769	207,356	0	None
	Totals:	393,057	985,908	6,086,443	7,465,408	6,760,200	
	% of Total Points Earned	5.27%	13.21%	81.53%	100.00%	90.55%	
SUMMARY TOTALS:							
TOTAL GIFT CARD VALUES:							
POTTERY BARN \$6,050							
GUCCI \$2,750							

**IG10-55 OIG SCHEDULE A
AMERICAN EXPRESS REWARD POINTS**

Line Number	Monthly Statement Period	Points Earned - Rodriguez Personal Account	Points Earned - FHS Business	Points Earned - JMF Business Platinum	Total New Points Earned	Points Transferred or Redeemed	Items Redeemed for Merchandise or Travel
	BLOOMINGDALES	\$1,800					
	SAKS 5TH AVENUE	\$1,000					
	NEIMAN MARCUS	\$500					
	SMITH & WOLLENSKY	\$500					
	BANANA REPUBLIC	\$400					
	CRATE & BARREL	\$300					
	<u>TOTAL POINTS - TRANSFERS TO FREQUENT FLYER ACCOUNTS/HOTELS:</u>						
	CONTINENTAL AIRLINES ONE PASS ACCOUNT	3,357,000 POINTS					
	DELTA AIRLINES SKYMILES ACCOUNT	565,000 POINTS					
	JET BLUE AIRLINES TRUEBLUE ACCOUNT	266,500 POINTS					
	HILTON HOTELS HILTON HONORS ACCOUNT	185,000 POINTS					
	<u>MISCELLANEOUS VENDOR PURCHASES BY POINTS REDEMPTION:</u>						
	BEAVER CREEK LIFT TICKETS AND SKI RENTALS	288,000 POINTS					
	TISSOT WATCHES	134,500 POINTS					
	CALLAWAY GOLF EQUIPMENT	125,000 POINTS					
	MONTBLANC & DUNHILL PENS	116,700 POINTS					
	SCHWINN BICYCLE	31,500 POINTS					
	MISCELLANEOUS OTHER ITEMS	81,000 POINTS					

Alan Dimond & Eugene Conese
April 7th, 2008
Page 2

Memorandum

To: Alan Dimond and Eugene Conese
From: James Champion
Subject: *Rolando Rodriguez Performance Bonus*
Date: April 7, 2008

INFORMATION ON ROLANDO RODRIGUEZ SALARY AND BENEFITS

Rolando's salary for year 2007/2008 is \$307,875.00

- △ JMF Salary \$270,375
- △ \$37,500 compensation provided through FHS

Current Benefit Package:

401K matching: \$9,000.00
401K Profit Sharing: \$13,500.00
Auto Allowance: \$6,582.00
Health Insurance: \$5,850.00

(Note: American Express points earned are given to Rolando)

EXHIBIT

1



*Visionary Fundraising for
the Jackson Health System*

March 25, 2010

To: Mark Teitelbaum, Auditor
Office of the Inspector General

From: Zully Ford, Managing Director of Finance

I am addressing your inquiry regarding the American Express Account used for Foundation Health Services and the usage of the earned points in the account. This American Express account is personally provided by Rolando Rodriguez, who is the only signatory responsible for this account.

Through agreement with Rolando, this card is provided for use by FHS as required to conduct its business. As a result, it is considered that any accrued points belong to Rolando. All FHS points are accrued to Rolando's master American Express Membership Rewards account. This issue was reviewed and recommended by the JMF Chairman of the Employment Practice Committee and approved by the FHS Chairman.

It should be noted that the gross membership rewards point total of all his accounts is reflected on the FHS American Express statements, and does not exclusively reflect the points accrued through the use of the Amex FHS.

In April 2008, Foundation Health Services developed enough financial history to establish a credit account through Northern Trust Bank with a small credit limit (currently a \$50,000 a month maximum, originally \$25,000). Due to the limit, this card alone is still not sufficient to conduct the business of FHS during busy periods of travel and conferences.

Should you have any additional questions or concerns, please feel free to contact me at 305-585-1731.

Thank you.



Jimenez, Felix (OIG)

From: Rodriguez, Rolando D (JMF) [RDRodriguez@med.miami.edu]
Sent: Friday, January 14, 2011 1:37 PM
To: Jimenez, Felix (OIG); Pelosi, Richard (OIG)
Subject: FW: Amex-OIG (2).doc
Attachments: RDR comp memo 08.pdf; Amex-OIG (2).doc

Gentlemen:

Above are the memos we discussed, and below an excerpt from the Amex terms of service which was provided to me by Amex regarding this issue:

1. Fraud or abuse relating to the accrual of points or redemption of rewards may result in forfeiture of accrued points as well as cancellation of your program account and any AMEX Card account.
2. The program is intended to be a service provided to an individual, not a company. A CM may redeem points for rewards for personal or business purposes as that CM may choose. It is therefore considered fraudulent and abusive for any individual or company to (i) direct or compel any Corporate CM, Business CM or other individual to redeem points for company use or (ii) to direct, compel, encourage or allow a Corporate CM or other individuals to use a single Corporate Card account for the purpose of accumulating points for company use.
3. If you are a Corporate CM with only the Corporate Card enrolled in the program and, for any reason, your ability to incur charges on your Corporate Card is suspended (including due to the bankruptcy or insolvency of your employer), your opportunity to redeem points accrued in your program account will also be suspended simultaneously. If your ability to incur charges on your Corporate Card is restored, your opportunity to redeem points accrued in your program account will also be restored, provided all other conditions set forth herein have been met.
4. All questions or disputes regarding eligibility for the program, eligibility of points for accrual, conversion of points or redemptions of rewards will be resolved by AMEX at its sole discretion.
5. The determination of tax liability for any federal, state or local taxes (as may be applicable) arising out of the accrual or conversion of points or redemption of rewards in the program shall be your sole responsibility.
6. We are not responsible for typographical errors and/or photographic errors and/or omissions in this brochure.
7. This brochure and these Terms & Conditions supersede all previous Membership Miles® and Membership Rewards First program brochures and Terms & Conditions.
8. These Terms & Conditions are governed by and construed under the laws (excluding conflicts of law provisions) of New York

Thanks,

Rolando



OIG

Final Report

Appendix A

Response from Mr. Rodriguez' Attorney

IG10-55

THE BARTHET FIRM

L A W Y E R S T O B U S I N E S S

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THELIENZONE
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February 17, 2011

Christopher Mazzella, Inspector General
Miami-Dade County, Florida
19 West Flagler Street
Suite 220
Miami, Florida 33130

RE: OIG Draft Report, IG10-55

Dear Mr. Mazzella:

We write you on behalf of our client, Rolando Rodriguez, and have reviewed the above referenced draft report, enclosed with your correspondence to him dated February 4. Please accept and include this response on behalf of our client in any final report.

First and foremost, we wish to point out what we believe is the County's blatant violation of federal law, including provisions set forth in the Right to Financial Privacy Act, 12 U.S.C. §§ 3401 *et seq.* Notably absent from your report are disclosures as to how your office obtained information regarding the subject credit card at issue. Such credit card records are just the type of financial information protected under the Act. See 12 U.S.C. § 3401 in general. Access to private financial records is expressly prohibited by the provisions of 12 U.S.C. § 3402. Our client has not authorized such access by your office nor has he seen anything to indicate that your office properly obtained a subpoena or warrant for access to same. As noted by more than one court, state and local government agencies are prohibited from disclosing such personal data. Indeed, the Act expressly provides in 12 U.S.C. § 3403 that information of the type mentioned in your report is deemed to be confidential. Additionally, under 12 U.S.C. § 3412, even information that has been properly obtained may not be transferred to other agencies absent a legitimate law enforcement inquiry – something that is woefully absent here.

It should also not be lost upon your office that Florida state law prohibits disclosure of personal financial information. In particular, Article I, section 23 of the Florida Constitution accords individuals in this State broad rights of privacy – including the right of financial privacy. Do understand that our client has not consented to this disclosure or the use of these records by anyone, and to the extent some form of consent is implied through his employment, it is hereby withdrawn.

Christopher Mazzella, Inspector General
RE: OIG Draft Report, IG10-55
February 17, 2011
Page 2

Additionally, we draw your attention to Item # 1 set forth on pages 4 and 5 of the report noting that the FHS Amex account at issue was opened by our client. In particular, we take exception to your failure to acknowledge the fact that our client opened this account so that FHS could have access to credit that was otherwise unavailable. We further take exception to finding # 3 on page 5 of the report that points earned from JMF and FHS were "commingled." Additionally, the report fails to properly credit the internal memoranda of FHS as referenced in the interview of James Champion that to the extent points were earned from use of the Amex credit, said points were part of our client's compensation package. You further fail to note the testimony of Alan Dimond that use of such points was in fact authorized. Most significantly, you fail to credit the fact that our client personally earned the lion's share of these points from his personal use of the credit card. You conclude that "FHS never should have entered into such an arrangement" with our client, but fail to provide an alternative as to how the line of credit accorded by the Amex and needed by FHS could have been arranged.

As for your finding on pages 10 and 11 of the report that our client failed to disclose his use of the subject points to the IRS, you again reach an erroneous conclusion. You clearly have not reviewed Internal Revenue Bulletin Announcement 2002-18 which provides that the Internal Revenue Service will not assert an understatement of tax liability by reason of personal use of intended promotional benefits attributable to a taxpayer's business or official travel.

In summary, we take issue with your report both in terms of its factual conclusions as well as its legal underpinnings. We especially take exception to the blatant violation of our client's right to financial privacy by the County. Mr. Rodriguez's use of the subject points was not improper and was authorized. The County's illegal violation of our client's right to financial privacy and its decision to make an issue of actions which were authorized and not otherwise improper are both outrageous and punishable by fine and disciplinary remedies under 12 U.S.C. § 3417. We strongly urge your office to act within the bounds of the law and refrain from using and attaching our client's private information to your report.

Yours truly,



Patrick Barthet
For the Firm

cc: Client

OIG

Final Report

Appendix B

Response from Mr. Dimond (FHS)

IG10-55



Foundation Health Services, Inc.

Jackson Medical Towers • 1500 N.W. 12th Avenue • Suite 829- East • Miami, FL 33136-9998 • (305) 355-5544 office • (305) 355-5545 fax • www.jmhi.org

February 16, 2011

Mr. Christopher Mazzella
Inspector General
Miami Dade County Office of the Inspector General
Suite 220
19 West Flagler Street
Miami, FL 33130

RE: OIG Draft Report, IG10-55

Dear Mr. Mazzella:

This letter shall serve as Foundation Health Services, Inc.'s ("FHS") response to the Office of the Inspector General ("OIG"). The OIG has examined the awarding of points for an American Express account owned and authorized personally by FHS' CEO, which credit card was voluntarily provided to FHS for its routine business.

Absent from OIG's report is the fact that FHS use of the credit card was at **no additional cost** to FHS, and the awarding of points to the CEO as a perk created **no additional expense** to FHS. Additionally, without the use of the card, FHS could not have conducted its business because FHS had no credit with which to independently obtain a credit card.

Also absent from the report is that FHS employs usual and customary practices regarding the awarding of credit card points, and note no evidence to the contrary in the report. Membership reward points are provided through an individual rewards program of the American Express company, whose formal Terms of Service prohibit the coercion of employees to provide a company with their points. Industry practices routinely provide points to the card member as a perk, even when the business pays the expenses.

FHS' CEO was authorized to provide this card to FHS employees for their use. Further, the issue was reviewed by FHS' auditors and external accounting firm, and the provision of this card by the CEO was noted in the 2007 FHS audit. The auditor and accounting staff were aware that points were being awarded to the CEO for his personal use as a perk, and noted no objections. This arrangement benefitted FHS by saving time and money in office staff, and creating clear records that are helpful to accounting and transparency. Amex and other credit cards are used routinely by many businesses for this very reason.

Mr. Christopher Mazzella
Inspector General
Miami Dade County Office of the Inspector General
February 16, 2011
Page 2 of 2

The provision of points was not noted in FHS' Form 990 because the IRS does not consider points earned from business expenditures as income or compensation to the recipient (IRS Announcement 2002-18). The card was owned by the CEO, and not the company, and thus the points were owned by the CEO, and not the company. All uses of the Amex card were for approved projects and within budget. The availability of the Amex card was limited to a few trusted employees, and requests for additional cards were routinely denied by the CEO. There is no indication of any inappropriate direction by the CEO for the use of the card by employees.

Lastly, FHS would be remiss if we did not note our objection to the inclusion of Rolando Rodriguez's personal financial information being contained in the report. In fact, FHS requests that the report be modified, and that all of the information contained on Page 5 be deleted. The objection is two fold. First, FHS does not want anyone to be misled into believing that FHS consented to the release of this information, or its inclusion in the report. Secondly, it is our understanding that disclosure of this information is in violation of Florida and Federal law. Irrespective of how the information was obtained, it is the private information of Mr. Rodriguez, and FHS does not consent to its use or inclusion in the report.

Sincerely,

FOUNDATION HEALTH SERVICES, INC.

By:



Alan T. Dimond, Chairman

Internal Revenue bulletin

Bulletin No. 2002-10
March 11, 2002

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

SPECIAL ANNOUNCEMENT

Announcement 2002-18, page 621.

The IRS will not assert that any taxpayer has understated his federal tax liability by reason of the receipt or personal use of frequent flyer miles or other in-kind promotional benefits attributable to the taxpayer's business or official travel. Any future guidance on the taxability of these benefits will be applied prospectively. The relief provided by this announcement does not apply to travel or other promotional benefits that are converted to cash, to compensation that is paid in the form of travel or other promotional benefits, or in other circumstances where these benefits are used for tax avoidance purposes.

INCOME TAX

Rev. Rul. 2002-9, page 614.

Impact fees. This ruling provides that impact fees incurred by a taxpayer in connection with the construction of a new residential rental building are capitalized costs allocable to the building. Rev. Proc. 2002-9 modified and amplified.

Rev. Rul. 2002-10, page 616.

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 1274, 1288, and other sections of the Code, tables set forth the rates for March 2002.

Rev. Rul. 2002-11, page 608.

Election in respect of losses attributable to a disaster. This ruling lists the areas declared by the President to qualify as major disaster or emergency areas during 2001 under the Disaster Relief and Emergency Assistance Act.

Notice 2002-19, page 619.

The "differential earnings rate" under section 809 of the Code is tentatively determined for 2001 together with the "recomputed differential earnings rate" for 2000.

EXEMPT ORGANIZATIONS

Announcement 2002-25, page 621.

A list is provided of organizations now classified as private foundations.

Actions Relating to Court Decisions is on the page following the Introduction.
Finding Lists begin on page ii.



Department of the Treasury
Internal Revenue Service

American Express Membership Rewards Program
Terms of Service

Section: General, number 2

Link: <http://www.membershiprewards.com/catalog/splashtemplates/TermsSplash.aspx>

- 2. The program is intended to be a service provided to an individual, not a company. A CM may redeem points for rewards for personal or business purposes as that CM may choose. It is therefore considered fraudulent and abusive for any individual or company to (i) direct or compel any Corporate CM, Business CM or other individual to redeem points for company use or (ii) to direct, compel, encourage or allow a Corporate CM or other individuals to use a single Corporate Card account for the purpose of accumulating points for company use.*

OIG

Final Report

Appendix C

Response from Mr. Dimond (JMF)

IG10-55



*Voluntary Fundraising for
the Jackson Health System*

February 22, 2011

Mr. Christopher Mazzella
Inspector General
Miami Dade County Office of the Inspector General
19 West Flagler Street, Suite 220
Miami, FL 33130

Re: OIG Draft Report, IG10-55

Dear Mr. Mazzella:

This letter shall serve as Jackson Memorial Foundation's (the "Foundation") response to the OIG's draft report dated February 4, 2011.

The OIG has examined the awarding of American Express card member points respecting the American Express account owned by the Interim CEO of Foundation Health Services ("FHS") which card was provided to FHS and certain of its employees in order to conduct FHS's business. This letter addresses certain portions of the OIG's draft report. We refer you to FHS's letter of February 18, 2011 addressing the OIG's draft report in further detail.

The CEO was authorized to provide this card. The card was owned by the CEO, and not FHS, and thus the points were owned by the CEO, and not FHS. The Foundation is troubled that these facts are glaringly absent from the OIG's draft report.

The VISA card referenced in the OIG report was provided through the good credit of the Foundation, with the CEO signing only as the corporate representative. The VISA card is appropriately an FHS corporate credit card, and will be closed upon the transfer of the business to the PHT.

The Foundation objects to the release of both the Foundation's and the CEO's private financial information and does not consent to its use. Putting aside how this information was obtained, we believe providing this information to the public serves no useful purpose and request that this information be removed from the OIG's final report.

The Amex card is closed and FHS will soon cease to exist as the PHT transitions the international business to its new model. We are confident that the PHT will note the OIG's objections and recommendations and move forward successfully with a new business model.

Sincerely,

Alan T. Dimond
Chairman

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OIG

Final Report

Appendix D

Response from Dr. Roldan

IG10-55



Eneida O. Roldan, MD, MPH, MBA
President & CEO

Executive Office
Jackson Health System
1611 N.W. 12th Avenue
(305) 585-6754

MEMORANDUM

TO: Christopher Mazzella, Esq. C.I.G.
Inspector General, Miami Dade County

FROM: Eneida O. Roldan, MD, MPH, MBA
President and CEO

DATE: February 17, 2011

RE: Response to OIG Draft Report IG10-55

A handwritten signature in black ink, appearing to read "Eneida O. Roldan", is written over the "FROM:" field of the memorandum.

Jackson Health System administration and the Public Health Trust Board of Trustees strongly support the dignified mission of the Office of the Inspector General (OIG). The core values of the Jackson Health System (JHS) are predicated on transparency, ethics and strong moral commitment to the Miami-Dade County community. We are appreciative of the collaboration that we have in place that will continue to support our unwavering pledge to the citizens of Miami-Dade County.

We have carefully reviewed the draft report by the OIG and hereby respond to the initial findings outlined in the document.

Ted Shaw, chief transition officer of Jackson Health System, interviewed Alan Dimond, chairman of the Board of Directors for Foundation Health Services (FHS) and the Jackson Memorial Foundation (JMF), and Rolando Rodriguez, president and CEO of FHS, on the credit card issue.

FHS informed Mr. Shaw that Mr. Rodriguez's use of the organization's American Express credit card, sponsored by Rolando Rodriguez, was within the approved policy of FHS. This was confirmed by Mr. Dimond and Mr. Rodriguez.

Use of the FHS American Express credit card ceased in November 2010. The credit card has been canceled.

In addition, as of November 4, 2010, Mr. Shaw and Mark Knight, chief financial officer of Jackson Health System, assumed direct oversight of the fiscal operations of FHS, including review of all expenditures above \$25.00. We currently require receipts with appropriate backup including stated business purposes, receipts and support for all items in which reimbursement is being sought. If no receipts and/or supporting documentation are provided, as required by policy, the reimbursement is denied.

If you have any questions in regards to this, please contact me or Ted Shaw.