

INVESTIGATIVE AUDIT REPORT

MEMPHIS POLICE ASSOCIATION
JANUARY 1, 2005, THROUGH FEBRUARY 29, 2008



State of Tennessee



**Comptroller of the Treasury
Department of Audit
Division of Municipal Audit**



STATE OF TENNESSEE

COMPTROLLER OF THE TREASURY

Justin P. Wilson

Comptroller

STATE CAPITOL

NASHVILLE, TENNESSEE 37243-0260

PHONE (615) 741-2501

April 17, 2009

Members of the Board of Directors
Memphis Police Association
638 Jefferson Avenue
Memphis, TN 38105

Ladies and Gentlemen:

Presented herewith is the report on our investigative audit of selected records of the Memphis Police Association. The audit was conducted at the request of the association's board of directors and with the cooperation of agents of the Tennessee Bureau of Investigation, Federal Bureau of Investigation, and United States Secret Service. The investigative audit focused on the period January 1, 2005, through February 29, 2008. However, when the examination warranted, this scope was expanded.

Our investigative audit revealed that between November 2004 and April 2007, the former association president, Tommy Turner, apparently diverted at least \$26,239 from the association to which he was not entitled.

This matter was referred to the local district attorney general. In March 2009, Mr. Turner was indicted on one count of Theft over \$10,000.

The findings and recommendations in this report also relate to those conditions that we believe warrant your attention. All responses to each of the findings and recommendations are included in the report.

Members of the Board of Directors
Memphis Police Association
April 17, 2009

Copies of this report are being forwarded to Governor Phil Bredesen, the State Attorney General, the District Attorney General, certain state legislators, and various other interested parties. A copy is available for public inspection in our office.

Very truly yours,

A handwritten signature in black ink, appearing to read "Justin P. Wilson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Justin P. Wilson
Comptroller of the Treasury



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
DIVISION OF MUNICIPAL AUDIT**

Justin P. Wilson
Comptroller of the Treasury

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Dennis F. Dycus, CPA, CFE, Director
Division of Municipal Audit

April 17, 2009

Mr. Justin P. Wilson
Comptroller of the Treasury
State Capitol
Nashville, TN 37243-0260

Dear Mr. Wilson:

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This matter was referred to the local district attorney general. In March 2009, Mr. Turner was indicted on one count of Theft over \$10,000.

Our examination also resulted in findings and recommendations related to the following:

1. Lack of financial oversight by board
2. Inadequate documentation
3. Lack of policy and inadequate oversight over use of credit cards
4. Association managed the disposition of traffic tickets
5. Failure to report lobbying activities of the board
6. Failure to account for assets
7. Lack of accountability for resale items

Mr. Justin P. Wilson
Comptroller of the Treasury
April 17, 2009

In addition to our findings and recommendations, we are also providing management's response.

If after your review, you have any questions, I will be happy to supply any additional information which you may request.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis F. Dycus". The signature is fluid and cursive, with a large initial "D" and "F".

Dennis F. Dycus, CPA, CFE, Director
Division of Municipal Audit

**INVESTIGATIVE AUDIT OF SELECTED RECORDS
OF THE MEMPHIS POLICE ASSOCIATION
FOR THE PERIOD JANUARY 1, 2005, THROUGH FEBRUARY 29, 2008**

LEGAL ISSUES

1. **ISSUE: Charge card refund diverted by former president**

Our investigative audit revealed that former president, Tommy Turner, diverted a refund check totaling \$5,996 due the association to his personal bank account. In late 2006, the association made duplicate payments on one of its American Express charge accounts – paying the same amount electronically and also with an association check. As a result, the association held a credit balance of \$5,996 on that account. According to American Express records, the former president, Tommy Turner, requested that a refund check be issued to him. Although the address on the account was that of the association offices, per customer instructions, American Express issued the refund check of \$5,996 to Tommy Turner at his home address. In January 2007, the refund check was deposited into Mr. Turner’s personal bank account. There was no documentation in association files granting the former president authority or permission to divert these funds for his personal benefit. There was also no documentation that Mr. Turner returned these improperly diverted funds to the association.

2. **ISSUE: Former president reimbursed for nonexistent expenditures**

Our investigative audit revealed that former president, Tommy Turner, received reimbursement totaling \$5,934 for expenses he never incurred. Auditors noted that the former president routinely sought reimbursement from the association for various things, including political donations. He provided as supporting documentation for these expenses copies of his personal checks payable to election campaigns or other alleged association expenses. However, auditors determined that these copies were of checks that had not yet been presented to the bank for payment. Auditors further determined that those checks never were transacted by the former president. In fact, the bank account on which those checks were written was apparently closed before many of those checks were written. Finally, auditors determined that the various campaigns had no record of contributions by the association or the former president. It appears that the former president submitted false documentation in order to receive payments to which he was not entitled.

3. **ISSUE:** **Profits from Hester-Sykes softball tournament retained by former president**

Our investigative audit revealed that the former president, Tommy Turner, retained proceeds totaling \$5,859 from the Hester-Sykes Softball Tournament for his own personal benefit. For the last several years, prior to 2007, Mr. Turner operated the association's softball tournament using his own personal bank account. He deposited registration fees and other collections directly into his personal bank account. He and other members also paid certain expenses of the tournament from his personal bank account. However, other expenses were paid directly through the association's checking account, or charged on the association's credit cards, or reimbursed to other association employees. As a result, in both 2005 and 2006, there remained an overage, or profit, of \$2,724 and \$3,135, respectively, in the former president's personal bank account from this event. Although the tournament was advertised as raising funds for charity, auditors found no evidence that the unspent proceeds remaining in the former president's personal bank account were used for a charitable purpose. In fact, documentation suggests that at least a portion of the proceeds were transferred to Mr. Turner's immediate family members. It appears that the former president ran the collections and disbursements of the tournaments through his own personal bank account and used the remaining proceeds for his own personal benefit.

4. **ISSUE:** **Association check used to pay personal bill of former president**

Our investigative audit revealed that in March 2006, the former president used an association check totaling \$4,403 to pay on his personal American Express account. The check was issued in the amount of the balance due on one of the association's credit cards. However, the payment was applied to former president Tommy Turner's personal credit card. There was no documentation in association files granting the former president authority or permission to divert these funds for his personal benefit. There was also no documentation that Mr. Turner returned this improper payment to the association.

5. **ISSUE:** **Reimbursement check diverted by former president**

Our investigative audit revealed that former president, Tommy Turner, diverted a refund check totaling \$2,878 due the association to his personal bank account. During 2005 and 2006, the law firm of Godwin, Morris, Laurenzi and Bloomfield represented the association in several lawsuits. The association paid their law firm certain costs and fees associated with these cases. In at least two instances, the other party in the lawsuit ultimately paid the costs and fees. As a result, the association received a refund from their law firm for the previously paid expenses. However, our investigative audit revealed that in February 2007, a refund check totaling \$2,878 was diverted to the personal bank account of former president, Tommy Turner. There was no documentation in association

files granting the former president authority or permission to divert these funds for his personal benefit. There was also no documentation that Mr. Turner returned these improperly diverted funds to the association.

6. **ISSUE: Former president returned items purchased by association for credit on his own account**

Our investigative audit revealed that on at least four occasions totaling \$1,169, the former president purchased items using association funds, then later returned the items to the vendor, and apparently kept the refund proceeds for his personal benefit.

Summary of Apparent Misappropriations	
Method	Amount
Diverted credit card refund	\$ 5,996
Reimbursements based on fraudulent documents	5,934
Diverted softball tournament proceeds	5,859
Personal credit card payment	4,403
Diverted law firm refund	2,878
Diverted vendor refunds	<u>1,169</u>
Total	<u>\$ 26,239</u>

7. **ISSUE: Payment to vendor for work never performed**

The investigative audit revealed that the association paid Bluff City Sheet Metal at least \$2,249 for air conditioning replacement work in 2007 that was not actually performed. The vendor charged the association for the replacement of a compressor, labor for installation, and even a crane to lift the compressor onto the association building’s roof. However, auditors determined that the compressor ultimately was not replaced and that a crane was not used. When initially questioned about this work, Bluff City Sheet Metal’s representative provided fraudulent documentation to the state auditors. However, he later acknowledged that his company had neither performed the work nor installed the equipment they had charged for and in October 2008, refunded \$2,249 to the association.

Auditors found that in 2006, Bluff City Sheet Metal had also charged the association \$720 for the use of a crane. However, the technician that actually provided the labor stated that no crane service was used. Finally, auditors found that in 2006, Bluff City Sheet Metal included in the total bill to the association \$500 for an “extended warranty” on the installation of two new compressors. However, the vendor failed to disclose this extra cost or their resultant obligation to the association. For that reason, the association

officers were unaware that, when the air conditioning unit began to fail in 2008, that the association owned an extended warranty.

8. **ISSUE:** **Other questionable payments to association vendors**

Auditors noted that some payments to longtime association vendors had no supporting documentation. In addition, the investigative audit revealed questionable relationships between the vendors and former president, Tommy Turner. For example, auditors noted several large payments to vendors that had either Mr. Turner or his wife as a second endorsement on the back of the association's checks.

BACKGROUND

The Memphis Police Association is chartered as a not-for-profit corporation. Officers of not-for-profit corporations in Tennessee are held to certain standards. Section 48-58-403, *Tennessee Code Annotated*, states:

An officer with discretionary authority shall discharge all duties under that authority:

- (1) In good faith;
- (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) In a manner the officer reasonably believes to be in the best interest of the corporation.

Similarly, the members of the board of directors for a not-for-profit organization have certain standards to which they must adhere. Section 48-58-301, *Tennessee Code Annotated*, “General standards for directors,” states:

- (a) A director shall discharge all duties as a director, including duties as a member of a committee:...
 - (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
 - (3) In a manner the director reasonably believes to be in the best interests of the corporation.

In addition, the charter of the Memphis Police Association sets out 15 purposes for the organization.

The findings and recommendations in this section address instances in which the association’s full-time elected board officers (president, vice-president and treasurer) and board members fell short of these standards. Although the current elected full-time board officers were not serving in that capacity during the majority of the period under audit, they will be responsible for implementing additional procedures and enforcing those procedures in the day to day operation of the association. Therefore, we asked for and included responses from those officials.

FINDINGS AND RECOMMENDATIONS

1. **FINDING: Lack of financial oversight by board**

The elected full-time board officers failed to adequately monitor and supervise the financial operations of the association. There appeared to be no critical oversight of either disbursements or credit card charges. As a result, even though association expenditures did not always appear to be for association purposes, the full-time board of directors had not placed themselves in a position to identify or detect those improper disbursements.

RECOMMENDATION:

To demonstrate the necessary level of care in performing their duties, elected full-time board officers should position themselves so they can monitor the financial operations of the association.

MANAGEMENT'S RESPONSE:

Elected Full-Time Officers of the Board of Directors:

We concur with the recommendation. The treasurer is now obligated to verify all expenses. The president or vice-president is to verify all expenses of the treasurer.

2. **FINDING: Inadequate documentation**

Our investigative audit revealed that the elected full-time board officers failed to maintain adequate supporting documentation for many expenditures. The association maintained numerous credit cards. However, in most instances, only the credit card statements were on file. As a result, in many instances, auditors were unable to determine if a charge was for a valid association purpose.

Auditors also identified payments to vendors that totally lacked supporting documentation. During calendar year 2007, our investigative audit also identified payments totaling at least \$7,059 to the former president which had no supporting documentation. Undocumented expense payments to employees should be considered taxable income and reported to the Internal Revenue Service on the employees' federal Form W-2.

RECOMMENDATION:

To document that each disbursement was for a valid association purpose, the elected full-time board officers should ensure that adequate supporting documentation is maintained in the association's files. Before signing a check, authorized individuals should review

adequate supporting documentation to determine that the disbursement is for a valid association purpose. Adequate documentation for disbursements requires a detailed original invoice. Statements are not adequate documentation.

MANAGEMENT'S RESPONSE:

Elected Full-Time Officers of the Board of Directors:

We concur with the recommendation. All expenditures are to have receipts and the treasurer is to maintain those receipts for inspection by any member. If the receipt is not clear as to what was purchased or the purpose, a clarification notation is to be made on the receipt.

3. **FINDING: Lack of policy and inadequate oversight over use of credit cards**

Our investigative audit revealed a lack of restraint and controls on the use of association credit cards. In many instances, documentation, including original invoices and charge slips, was not on file. Therefore, as mentioned in Finding 1, records were insufficient to determine if the association received the benefit of those charges. However, even with deficient documentation in association files, auditors were able to identify areas of apparent credit card waste and abuse by full-time board officers and employees.

- In several instances, when elected full-time board officers traveled on official business, the air travel of their spouse or a guest was charged on an association credit card. However, there was no documentation indicating that those expenses were either approved for payment by the membership or reimbursed to the association by the board officer. The association had no provision or policy which would allow paying the travel expenses of spouses or guests.
- Employees and elected full-time board officers of the association routinely used association credit cards to buy fuel for their personal vehicles. During calendar year 2006, charges of this type amounted to at least \$4,491. In many instances, the fuel was purchased during a weekend. However, there was no documentation that the use of the fuel was for a valid association purpose. Our audit also identified business trips in which full-time board officers received both a per mile reimbursement and fueled their vehicle using an association credit card.
- The former president charged his cell phone bill, in several instances exceeding \$1,000 for a single month, to an association credit card. However, he failed to provide a detailed bill documenting the details of his cell phone usage.
- Due to the delinquency in payment in many instances, the association incurred finance charges and late fees on a routine basis. In fact, over \$1,500 in late fees were added to association credit card accounts in the 12 months ended December 2007.

- During calendar year 2006, association officials and employees charged at least \$25,569 for meals and beverages on association credit cards. The vast majority of these charges, as well as similar charges in other years, had no indication of a legitimate business purpose. Lacking documentation that these expenses were for association business, they should be considered taxable income and reported to the Internal Revenue Service on the employees' federal Form W-2.

RECOMMENDATION:

To ensure that membership funds are used wisely and appropriately, the board should ensure that elected full-time board officers and employees are conscientious in their management of association money. The board should adopt clear credit card policies so that all authorized users understand what charges are allowable and what charges are forbidden. All personal charges should be strictly prohibited. Allowing employees to charge personal purchases on association accounts increases the risk that, either accidentally or intentionally, the personal debt will never be repaid. Association personnel should pay bills promptly to take advantage of all discounts and/or avoid any penalties. In addition, in compliance with association policy, all credit card charges must be presented at each board meeting for board review.

MANAGEMENT'S RESPONSE:

Elected Full-Time Officers of the Board of Directors:

We concur with the recommendation. The president, vice-president, treasurer, and office manager are authorized to each have one card. The cards will be on one account with each card individually named. When the statement arrives, each person must produce a receipt for each charge. The receipts must list the items. The treasurer is to verify and attach all receipts to the statement. If a receipt cannot be produced, then a written notation must be made by that card holder on the statement. Any charges made by the treasurer must be verified by the president or vice-president. A financial report is then given at every monthly meeting of the board and membership.

4. **FINDING:** **Association managed the disposition of traffic tickets**

Auditors identified at least \$4,826 in ticket-related fines, fees, or other court costs paid by the association. Although documentation was inadequate in most instances, at least some of those costs appeared to be on behalf of association members. However, based on association documents, full-time board officers also expended association time and money managing the traffic tickets of friends and family. The association's charter lists 15 purposes for the organization. Managing traffic tickets or other court actions of board members' family and friends does not appear to satisfy any of those purposes.

RECOMMENDATION:

To ensure that membership funds are used wisely and appropriately, the elected full-time board officers should ensure that association money is used in ways that advance or support the stated purpose of the organization.

MANAGEMENT'S RESPONSE:

Elected Full-Time Officers of the Board of Directors:

We concur with the recommendation. Payment of traffic tickets is no longer practiced.

5. **FINDING: Failure to report lobbying activities to board**

The association's former secretary-treasurer, a registered lobbyist, made weekly trips to Nashville while the state legislature was in session. He would routinely charge a meal on an association credit card for two to four guests at some of Nashville's more expensive restaurants. Although adequate documentation of the trips was usually on file, there was no documentation in association files of whom the former secretary-treasurer was meeting, or for what purpose. In addition, the former secretary-treasurer did not provide a progress report to the board. Article 8 of the association's bylaws requires that if board officers travel on behalf of the association, they must submit a written or oral report to the board at its next regular meeting.

RECOMMENDATION:

To adequately inform the association board and membership, lobbying efforts and progress reports should be presented at association board meetings. In addition, to properly document association business, invoices for entertainment should include a notation of who was present and what association business was discussed.

MANAGEMENT'S RESPONSE:

Elected Full-Time Officers of the Board of Directors:

We concur with the recommendation. We no longer make regular lobbying trips to Nashville.

6. **FINDING: Failure to account for assets**

Elected full-time board officers failed to ensure that a complete and accurate listing of high-risk, movable property was maintained, or that all property purchased was available

for association use. Auditors discovered that certain high-risk, movable items purchased with association funds were not available for association use at association offices. These items included several televisions, at least two vacuum cleaners, a pressure washer, and various other items. Auditors also found that liquor left over from the association's Christmas party was being stored at an association employee's home.

RECOMMENDATION:

To safeguard and account for high-risk, movable property, full-time board officers should ensure that an accurate and complete inventory of this property be maintained. A physical inventory should be performed at least annually, and documentation of that inventory should be maintained.

MANAGEMENT'S RESPONSE:

Elected Full-Time Officers of the Board of Directors:

We concur with the recommendation. A log of all assets is maintained by the office manager. An offsite storage facility is being utilized to help protect assets and documents.

7. **FINDING: Lack of accountability for resale items**

The association engaged in several resale activities, including vending and apparel. However, adequate records were not maintained to determine if all proceeds from these activities were accounted for, whether the venture should have or did earn a profit or break even, and whether all inventory was adequately accounted for.

RECOMMENDATION:

To adequately account for all resale activities, association personnel must keep adequate inventory records, safeguard unsold inventory, and perform periodic analysis to ensure that profit targets are being achieved.

MANAGEMENT'S RESPONSE:

Elected Full-Time Officers of the Board of Directors:

We do not concur with the finding or recommendation. As a nonprofit organization, we do not attempt to make a profit on any item sold to our members. Some items are given away. This is a benefit of membership. We do attempt to limit our costs. We now maintain inventory records on apparel and vending machine receipts are noted.

AUDITOR'S REBUTTAL:

The finding addressed resale activities, in which the association did engage. However, personnel failed to account for the property on hand or the cash collected from the property that was sold. This lack of accountability could create an environment susceptible to fraud, waste, and abuse.

Some planning or consideration should be given to any resale activities, regardless of profitability target. The board should estimate projected collections and then compare that with actual collections. In that way, the board can fulfill its responsibility to act in the best interest of the membership. If the board decides that property is to be given away, within the framework of the association's purpose, those items should also be accounted for.

We reiterate our finding and recommendation.