

United States Senate

WASHINGTON, DC 20510

June 9, 2010

Robert J. Bach
Chairman
Board of Governors
Boys & Girls Clubs of America

Dear Mr. Bach:

We appreciate your responses to our March 10, 2010, letter regarding the activities and finances of the Boys & Girls Clubs of America (“BGCA”). Both responses help address the many issues that concern us while we deliberate S. 2924, *The Boys & Girls Clubs Centennial Reauthorization Act of 2009*. The responses indicate the Boys & Girls Clubs continued commitment to our nation’s youth, which we commend. As we stated in our initial letter, we recognize and appreciate the work of the clubs with the youth in our communities.

Our staffs have reviewed the material that BGCA provided and briefed us accordingly. Some of the responses and exhibits raise further questions so we respectfully request that you provide responses to the following questions.

I. Offshore Investments

The response indicates that the \$54,331,578 of “Equity” investments reported on BGCA’s 2008 Form 990, Schedule D consists solely of investments in six offshore entities in five countries.

1. When did BGCA begin investing in these entities?
2. Do these investments benefit individual clubs financially or otherwise? If so, please explain.
3. Provide minutes of full board, executive committee or investment committee meetings where these investments were discussed and approved.
4. Provide a current list of all offshore investments, including current values, and explain any differences from the information provided on BGCA’s 2008 Form 990.
5. Provide the return on investment on each offshore entity since initial investment to date.
6. Provide the brokerage and maintenance fees associated with each investment.

The response also states that an investment advisory firm advised BGCA to move some of its investments offshore to avoid U.S. taxes, in particular, the Unrelated Business Income Tax (“UBIT”). As you may know, entities set up solely to avoid UBIT are commonly known as “UBIT blockers”.

7. Provide any documentation from the investment advisory firm or other advisors, internal or external, outlining the tax advantages to moving investments offshore.
8. Provide minutes of full board, executive committee or investment committee meetings where these tax savings were discussed.
9. Provide the revenue generated from each investment and an estimate of the tax savings realized for each year BGCA invested in these UBIT blockers.

The Wall Street Journal reported that the Atticus Global Capital fund located in the British Virgin Islands closed in 2009.¹

10. Explain what happened to the almost \$14 million BGCA invested in this entity.

It appears that BGCA President Roxanne Spillett traveled to New York City in August 2007 at no expense, with the exception of one \$13.80 ground transportation charge, to meet with Goldman Sachs.

11. Please explain who paid for travel, meals and lodging expenses for this trip.
12. Was this trip related to BGCA's investment in OZ Overseas Fund, Ltd, for which you state that Goldman Sachs (Cayman) Trust, Limited is the Administrator? If so, were the costs associated with the trip expensed as part of BCGA's fees for the investment?

Within your response, BGCA indicated it had \$223 million in investments as of FY 2008.

13. Provide an itemized list of all current investments held, and their values at the end of each year fiscal year from 2006 through the present. In addition, please provide a list of all investments held, and their values, during that same time period if they would not be reflected in the previous list.
14. What is the current estimated value of each investment and of the BGCA's total investments?
15. How liquid are these investments?
16. Why are these investments not redirected to financially challenged clubs?

II. Other Investments

The response indicates that \$53,437,539 of "Limited Partnerships" investments reported on BGCA's 2008 Form 990, Schedule D consists solely of investments in private equity funds.

1. When did BGCA begin investing in these entities?
2. Please explain whether and how these investments assist the individual clubs.
3. Provide minutes of full board, executive committee or investment committee meetings where these investments were discussed and approved.
4. Provide a current list of these investments, including current values, and explain any differences from the information provided on BGCA's 2008 Form 990.
5. Provide the return on investment on each since initial investment to date.
6. Provide the brokerage and maintenance fees associated with each investment.
7. Provide any documentation from any investment advisory firm or other advisors, internal or external, outlining the tax advantages of investing in limited partnerships.
8. Provide minutes of full board, executive committee or investment committee meetings where these tax savings were discussed.
9. Provide the revenue generated from each investment and an estimate of the tax savings realized for each year BGCA invested in these partnerships.

¹ *The Wall Street Journal*, "Atticus Capital to Close Two Big Funds", August 12, 2009; <http://online.wsj.com/article/SB125000181949422727.html#articleTabs%3Darticle?mg=com-wsj>

III. Endowment Assets

The chart on the next page summarizes the payout rates from BGCA's endowment funds. Since many of BGCA's endowment funds do not actively make distributions, it appears that millions more could be dedicated to BGCA's programs if BGCA adopted a payout policy similar to that of private foundations .

1. What amount of the endowment assets are invested in the offshore entities, limited partnerships and publicly traded securities?
2. Provide minutes of full board, executive committee or investment committee meetings where endowment payout rates were discussed and approved for unrestricted, restricted and board designated funds.
3. Please list all restricted funds that specifically limit payout to a certain amount.
4. Please explain why the unrestricted funds pay out the least amount of money.
5. Please provide a copy of the Form 990 Schedule B, Schedule of Contributors for the last three years and identify any donations greater than \$5,000 not reported on the Schedule B.
6. What activities are sponsored by the board designated funds?
7. Please explain whether and how endowment assets assist individual clubs.
8. Provide the amount of investment management fees paid to manage these funds and whether any performance based bonuses were paid to these managers.
9. Provide the total value of investments/holdings for the calendar year ended 2009 and for first quarter 2010.

Summary of Payout from BGCA Endowment Funds

| | 2004 | 2005 | 2006 | 2007 | 2008 |
|-------------------------------|------------|------------|------------|------------|------------|
| Restricted Assets | 37,374,419 | 46,241,127 | 53,630,561 | 59,335,700 | 37,948,101 |
| Payout | 867,820 | 874,140 | 930,851 | 1,377,614 | 1,132,215 |
| Restricted - Payout % | 2.32% | 1.89% | 1.74% | 2.32% | 2.98% |
| # of Funds with Payout | 4 | 4 | 5 | 6 | 6 |

| | | | | | |
|-------------------------------|------------|------------|------------|------------|------------|
| Unrestricted Assets | 22,589,068 | 24,030,055 | 27,813,721 | 30,123,102 | 23,390,613 |
| Payout | 1,131 | 2,063 | 4,337 | 0 | 5,028 |
| Payout % | 0.005% | 0.009% | 0.016% | 0.000% | 0.021% |
| # of Funds with Payout | 2 | 1 | 1 | 0 | 1 |

| | | | | | |
|--------------------------------|-----|-----|-----|-----|-----------|
| Board Designated Assets | N/A | N/A | N/A | N/A | 6,290,699 |
| Payout | N/A | N/A | N/A | N/A | 278,844 |
| Unrestricted - Payout % | N/A | N/A | N/A | N/A | 4.433% |
| # of Funds with payout | N/A | N/A | N/A | N/A | unknown |

| | | | | | |
|-----------------------|------------|------------|------------|------------|------------|
| Total Assets | 59,963,487 | 70,271,182 | 81,444,282 | 89,458,802 | 67,629,413 |
| Total Payout | 868,951 | 876,203 | 935,188 | 1,377,614 | 1,416,087 |
| Total Payout % | 1.45% | 1.25% | 1.15% | 1.54% | 2.09% |

| | | | | | |
|-----------------------------------|-----------|-----------|-----------|-----------|-----------|
| 5% | 2,998,174 | 3,513,559 | 4,072,214 | 4,472,940 | 3,381,471 |
| Difference: 5% less actual | 2,129,223 | 2,637,356 | 3,137,026 | 3,095,326 | 1,965,384 |

IV. Executive Compensation

A review of both the November 21, 2005, BGCA memo and the “draft” executive salary study (prepared by a consulting company) dated November 12, 2007, indicates that Boys and Girls Club *Movement* revenues were considered when determining senior executives’ compensation. The November 12, 2007, study clearly states that BGCA revenue was \$187 million and that Movement revenues totaled \$1.5 billion.

As BGCA states repeatedly in its response, the Boys and Girls Clubs Movement is comprised of *all* the individual boys and clubs nationwide. BGCA stresses the autonomy and independence of the individual clubs repeatedly in its response. Thus, for purposes of determining BGCA executives' compensation, compensation consultants consider the revenues of the whole Movement. This benchmark then allows for comparisons to executive salaries at organizations that may have more complex operations. More troubling, however, is that BGCA executive salaries are higher than executive salaries at larger organizations to which it is compared.

Take the following examples from the November 12, 2007 compensation study.

| | Operating Income | Compensation |
|---------------------------|------------------------|-------------------------|
| Charity A – CEO | \$2,592 Million | \$361.8 Thousand |
| Charity B – President/CEO | \$4,175 Million | \$481.2 Thousand |
| Charity C – CEO | \$5,130 Million | \$400.6 Thousand |
| BGCA – President | \$1,381 Million | \$536.8 Thousand |

The same study provided a comparison between the BGCA's senior vice president salary with similar executive positions at the same charities considered when comparing president/CEO salaries. Once again, there were similar significant disparities in the operating incomes versus executive compensation when compared to the same charities.

| | Operating Income | Compensation |
|-------------------|------------------------|-------------------------|
| Charity A – VP | \$2,592 Million | \$188.7 Thousand |
| Charity B – COO | \$4,175 Million | \$285.3 Thousand |
| Charity C – COO | \$5,130 Million | \$232.4 Thousand |
| BGCA – SVP | \$1,381 Million | \$324.1 Thousand |

1. If the Executive Compensation Assessment dated November 12, 2007, is in fact a draft, please provide the final study.
2. How much did BGCA pay for this study and the December 31, 2005, opinion?
3. Provide minutes of full board, executive committee or compensation committee meetings where the November 12, 2007, study was discussed and approved. In particular, please indicate whether the board considered if including the revenues of the Movement was appropriate in light of the independence of the individual clubs.

We appreciate that BGCA's Human Resources & Compensation Committee ("HRCC") has agreed to reassess the supplemental retirement benefits program ("SERP"). However, we are interested in the how the SERP amount was determined.

4. Please provide a copy of the 2004 Executive Total Compensation Assessment prepared by BGCA's compensation consultant.
5. Please provide minutes of the December 2004, March 2005, July 2005 and December 2005 HRCC meetings where the SERP was discussed.
6. The second paragraph on page 2 of the April 19, 2010, states that the independent compensation consultant "confirmed that this type of benefit would serve as a retention mechanism as well". Please indicate whether the Board was concerned about BCGA's president leaving in December 2005.
7. Provide a list of other executives, if any, who are participating in a SERP, the amounts and relevant documents.

8. Please clarify whether SERP benefits were considered in the November 12, 2007, Executive Compensation Assessment.

V. Club Closures

The BGCA response, dated March 29, 2010, indicates that 4,243 clubs have opened since 1996. However, the response also indicates that 1,023 have closed during that same period. Following is a breakdown of the closings per the response.

| | |
|---|-----|
| Loss of non-Club owned space, including military base realignments and closures | 388 |
| Consolidations with other sites | 123 |
| Failure to meet minimum requirements for membership in BGCA | 149 |
| Lack of adequate funding | 363 |

1. For each closure, other than consolidations, explain whether and how the youth served by those clubs were transitioned to other programs, even if not a Boys & Girls Club.
2. Identify each club closed because of loss of non-Club owned space and indicate whether and how BGCA assisted in securing another location.
3. Identify each club closed for failure to meet minimum requirements for BGCA membership and indicate which specific criteria the club failed to meet.
4. Identify each club closed for lack of adequate funding and indicate whether and how BGCA assisted in fundraising efforts.
 - a. Given that over 50% of BGCA's funding comes from private donations, please explain what amount, if any, of private contributions to BGCA are dedicated to individual clubs.
 - b. What fundraising assistance does BGCA provide to clubs situated in areas without a significant donor base, whether individual, business or charity.
 - c. Please explain what, if any, endowment assets are dedicated to individual clubs.

VI. \$13.1 Million Loss

The March 29, 2010, response provides some confusing information about BGCA's loss for 2008. The response states that the loss on the 990 is "quite different" from the loss presented in the BGCA's audited financial statements. In sum, the response states that loss per financial statements is closer to \$13,000 and that the discrepancy results from Financial Accounting Standard 116 regarding the accounting for pledges. Yet, only one schedule of the financial statements is provided. That schedule indicates that the \$13,000 loss is only in the Unrestricted-Undesignated category whereas the overall book loss is over \$84 million, with almost \$70 million in unrealized investment losses.

1. Please provide a complete copy of BGCA's audited financial statements.
2. Given that Form 990 instructions do not require compliance with FAS 116, please explain why BGCA chose to follow FAS 116.
3. Please provide the amount of pledges reported as revenue on BGCA's 2007 and 2008 Forms 990.
4. Please explain why expenses stayed almost constant from 2007 to 2008.
5. Please explain the unrealized investment losses.
6. Please explain the statement that "the Form 990 also does not take into account as a source of revenue the transfers of investment income to BGCA's operations, in accordance with the spend rate policies established by the Board of Governors". Given that all endowment funds are held by BGCA, per Form 990, Schedule D, Part V, line 3, it is not clear what type of transfers is referenced by this statement.

VII. Lobbying Expenses

A review of BGCA's lobbying fees revealed a disparity between fees reported to Congress and those paid by BGCA. Most notable was amounts reported by FirstPic Inc. to Congress in 2007 and 2008. There was no record of FirstPic lobbying for BGCA in 2007 and in 2008, FirstPic only reported \$20,000. BGCA, per its response, paid FirstPic \$147,600 in 2007 and \$71,418 in 2008.

Additionally, BGCA, in its response, identified separate payments, \$36,000 in 2007 and \$60,000 in 2008, to Robert Callaway, an associate of FirstPic, for federal lobbying. Since a separate address was used for Callaway, it appears he lobbied for BGCA independently of FirstPic. Separately, Callaway claims he has lobbied on behalf of BGCA since 1983 and his posted biography indicates "during his 24-year career at Boys & Girls Clubs of America, Callaway led a Government Relations team who, with very supportive relationships on Capitol Hill, raised over \$1 Billion for the organization."² However, a check of Congressional databases with the Senate Office of Public Records and the House's Legislative Resource Center did not list Callaway as a registered "independent" lobbyist

1. Provide a list of all expenditures from political and lobbying consultants incurred by the BGCA during FY 2009. (This information should include and identify any lobbying firms who work on your behalf and all expenses within your totals.).
2. Provide a detail explanation to include all contracts and documents of services performed by Robert Callaway Jr. as an independent lobbyist for the BGCA.
3. Elaborate why BGCA utilized FirstPic Inc. and Robert Callaway for lobbying when BGCA has a Governmental Affairs Division that lobbies.
4. Differentiate what lobbying and other services have been provided by FirstPic Inc. and Robert Callaway.

VIII. Other Expenses

While reviewing your March 29, 2010 response, we noted some significant professional fee expenses for BGCA 2008 tax filings from Part IX, Expenses, Item #9 (line 11g).

1. FirstPic Inc. - \$281,689.41 - for "Fees for Native American Club Support Services & Training"
2. FirstPic Inc. - \$337,498.00 - for "Government Relations Support Services"
3. Public Private Ventures - \$319,845.40 - Club Services – for "Longitudinal Examination of Club's Value"
4. University of Michigan - \$537,857.24 - for "Executive Leadership Program Development"

Within this same document, BGCA reported that FirstPic Inc. received \$6,734.13 from federal grants for Native American Clubs for Technical Assistance. Additionally the BGCA 2008 Form 990, Part VII, Section B, BGCA listed FirstPic Inc as one of its highest paid compensated independent contractors at \$591,786.

² <http://www.ripenfoundation.org/about/boardofdirectors/>

FirstPic Inc.

1. Provide detailed information regarding services provided by FirstPic Inc. to BGCA and independent Boys & Girls Clubs.
2. How do these services provided by FirstPic Inc. differ from operational service provided by BCGA and their staff?
3. Provide the grant information associated with FirstPic Inc. and the other 6 recipients of federal grants addressed in exhibit 36.

The first two points regarding FirstPic Inc. listed above total \$619,187.41. This doesn't match the \$591,786 provided on BGCA 2008 990 tax filing.

4. Are these totals separate and apart totaling \$1,210,973.41 paid to FirstPic Inc. by BGCA?
5. Does either of these totals incorporate the \$71,418 BGCA paid FirstPic Inc. for federal lobbying in FY 2008?

IX. Federal Grants

According to the website www.usaspending.gov, BGCA has received **\$653, 663,741** in federal funds from FY 2000 - 2009.

In our letter to BGCA dated March 10th, we asked the following:

“Identify any grants awarded to independent, for-profit companies on the BGCA’s behalf over the past five years. Indicate how much federal money was retained by the for-profits and by the BGCA, how much was used to pay third parties, and how much was actually paid to a grantee.”

BGCA’s response dated, March 29, 2010, advised that no grants were awarded to independent for-profit companies on BGCA’s behalf over the past five years.

However, upon conferring with the Department of Justice, we discovered a grant, 2007-JL-FX-K015, awarded to FirstPic Inc. on the behalf of BGCA in the amount of \$20,000,000 on August 27, 2007. The Office of Justice Programs provided the following objectives related to the aforementioned grant:

FirstPic, Inc. will assist expansion and expedition of the development of sustainable **Boys and Girls Clubs** within Indian Country and public housing communities. Employing pass through funding of more than \$10M, FirstPic will develop and support between 75-100 new sustainable **BGCA** sites in public housing and in (16) new sustainable clubs in Indian country. FirstPic will deliver targeted training and technical assistance to increase the ability of distressed communities to serve the greatest number of at risk youth. In coordination with BGCA, FirstPic will build upon its extensive program knowledge and experience to design and implement this endeavor.

Also, the Department of Justice identified two additional grants received by FirstPic that benefited BGCA. Please review the following information:

Federal grant # 2004-LD-BX-1406, awarded on September 22, 2004, in the amount of \$1,649,986 to FirstPic, Inc. The award intended **FirstPic, Inc.** to work with several agencies, including **Boys and Girls Clubs (B&GCs) of America**, to create action plans for seven community crime prevention agendas. Three of these agendas are continuation activities from the original grant: 1. Second Annual National Law Enforcement Crime Prevention Conference; This includes holding a national law enforcement crime prevention conference; the creation of a homeland security guide book for kids; a Neighborhood Watch Program in B&GCs; fraud prevention of military personnel and their families; and an after-school science/math crime prevention program.

Federal grant # 2004-LD-BX-1406, awarded on September 20, 2005, in the amount of \$3,149,989 to FirstPic, Inc. The focus of this grant was technical assistance. The award description indicated that **FirstPic, Inc.** will work with several agencies, including **Boys and Girls Clubs (B&GCs) of America**, to create action plans for seven community crime prevention agendas. Three of these agendas continue activities initiated under the original grant: 1. Second Annual Law Enforcement Crime Prevention Conference; 2. Protecting Military Personnel and Families through Crime and Financial Fraud Prevention; 3. After School Based Math and Science Crime Prevention Program. Four new programs are initiated under this supplemental award: 1. Crime Prevention through Local Communities and B&GCs; 2. Youth Crime Prevention Initiative; 3. Super Leaders Crime Prevention and Mentoring Program; 4. Youth Professional Development Leadership Training through Clemson University.

1. We reiterate our original question; identify any grants awarded to independent, for-profit companies on the BGCA's behalf over the past five years. Indicate how much federal money was retained by the for-profits and by the BGCA, how much was used to pay third parties, and how much was actually paid to a grantee.
2. Identify the 75 – 100 sustainable clubs FirstPic Inc. assisted BGCA in opening associated with grant number 2007-JL-FX-K015.
3. How many of the aforementioned clubs are now closed?
4. How much did BGCA pay FirstPic Inc. for technical assistance in FY's 2005 – 2009?
5. Did BGCA pay FirstPic Inc. for technical assistance at any point when FirstPic Inc. was simultaneously received federal grant money to provide technical assistance to BGCA?
6. Have any BGCA grants ever been audited or investigated by a federal agency? If so, please provide the names of the agencies, the descriptions of the investigations and final reports on these inquiries.

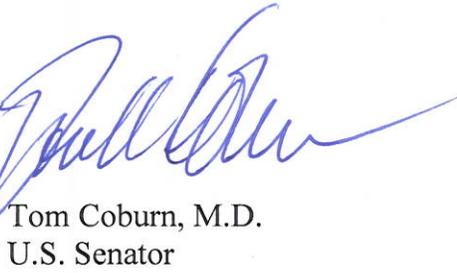
X. Non-Federal Grants

1. The response provides criteria for awarding and monitoring federal grants. Please provide the same for BGCA grants made from private funds.
2. Club membership dues paid to BCGA appear to be based on an individual club's expenses. Are expenses paid from federal funds included in the calculation of a club's dues?

We expect that the answers to these questions will better inform us as to the use of federal funds by the BGCA and will guide us in determining whether any changes are necessary to S. 2924 to ensure that such funds are reaching their intended recipients. We appreciate your prompt attention to these matters and request a written response by July 2, 2010. In order to ensure a complete and thorough response, we recommend that you discuss your proposed response with our staff before submitting it.

Sincerely,


Chuck Grassley
U.S. Senator


Tom Coburn, M.D.
U.S. Senator


Jon Kyl
U.S. Senator


John Cornyn
U.S. Senator