

OFFICE OF INSPECTOR GENERAL CITY OF JACKSONVILLE



REPORT OF INVESTIGATION 2021-0001

CITY FUNDS MISAPPROPRIATED BY
FORMER RISK MANAGEMENT EMPLOYEE

LISA A. GREEN
INSPECTOR GENERAL

JUNE 10, 2021

DATE ISSUED

“Enhancing Public Trust in Government Through Independent and Responsible Oversight”



EXECUTIVE SUMMARY

Report of Investigation 2021-0001

In November of 2020, the Director of Finance and Administration/Chief Financial Officer (CFO), City of Jacksonville (COJ), reported to the Office of Inspector General (OIG) that former appointed employee, Tony Preston, All-Lines Claims Adjuster, Risk Management Division (Risk Management), Finance and Accounting Department (Finance and Accounting), may have misappropriated COJ claims payments. The CFO advised that the Public Liability Claims Manager, Risk Management, Finance and Accounting, discovered Preston improperly created a third-party claims adjuster vendor profile (TPG Claims Services, LLC [TPG]) and paid himself approximately \$15,000 using COJ funds. The CFO advised that Preston was terminated from COJ for an unrelated matter in March of 2020. Risk Management had recently discovered the misappropriation and reported it immediately to the OIG.

The OIG initiated an administrative investigation in accordance with §602.303, *Ordinance Code*. According to the State of Florida Division of Corporations records, Preston was listed as the registered agent and manager of TPG. The OIG investigation *substantiated*, based on a review of Risk Management records, that TPG received five payments related to Risk Management claim payments totaling approximately **\$15,237**.

In accordance with Section 602.303(j), *Ordinance Code*, this matter was referred to the Jacksonville Sheriff's Office Integrity/Special Investigations Unit (JSO Integrity) for criminal investigation. Based on the information provided by the OIG and obtained during JSO Integrity's criminal investigation, an arrest warrant was issued for Preston for violations of Florida Statutes related to Grand Theft, Organized Fraud, Official Misconduct, and Money Laundering (one count each).

In January of 2021, JSO Integrity arrested Preston on the above referenced warrant. During Preston's interview, Preston admitted he misappropriated the money.

In March of 2021, prior to the issuance of the draft Report of Investigation, the OIG met with the CFO and the Chief of Risk Management to review and discuss the actions taken by Risk Management to strengthen internal controls. The Management response attached to this Report of Investigation outlines the internal controls implemented by Risk Management, which in part, include separation of duties related to vendor creation and check issuance authority and a formal review process for closing claims. In addition, Risk Management has ceased the practice of claims adjusters delivering checks in person, requiring all payments be mailed or issued at the Risk Management Office.

In June of 2021, the State Attorney's Office for the Fourth Judicial Circuit advised the case has been forwarded to the Pretrial Intervention Program. As part of the program, Preston will be required to fulfill 100 hours of community service, agree not to have his record sealed and pay the standard costs of probation.

Additionally, in June of 2021, the OIG verified that Preston repaid the COJ **\$15,236.80**, the amount Preston misappropriated, as identified by this investigation. In addition, in June of 2021, Preston repaid the OIG for investigation costs in the amount of **\$5,723.84**.

Although the OIG investigation was completed in March of 2021, the OIG deferred releasing the final Report of Investigation until the matter was adjudicated, so as not to interfere with the criminal investigation.

INVESTIGATIVE REPORT

In November of 2020, the Director of Finance and Administration/Chief Financial Officer (CFO), City of Jacksonville (COJ) reported to the Office of Inspector General (OIG) that former appointed employee, Tony Preston, All-Lines Claims Adjuster, Risk Management Division (Risk Management), Finance and Accounting Department (Finance and Accounting), may have misappropriated COJ claims payments. The CFO advised that the Public Liability Claims Manager, Risk Management, Finance and Accounting, discovered Preston had created a third-party claims adjuster vendor profile (TPG Claims Services, LLC [TPG]) and paid himself approximately \$15,000 using COJ funds. The CFO advised that Preston was terminated from COJ for an unrelated matter in March of 2020. Risk Management had recently discovered the misappropriation and reported it immediately to the OIG.

The OIG initiated an administrative investigation in accordance with §602.303, *Ordinance Code*. Also, in accordance with Section 602.303(j), *Ordinance Code*, this matter was referred to the Jacksonville Sheriff's Office Integrity/Special Investigations Unit (JSO Integrity) for criminal investigation.

The following investigative report outlines the findings related to OIG's administrative investigation and JSO Integrity's criminal investigation.

ALLEGATION

Tony Preston, Former All-Lines Claims Adjuster, Risk Management Division, Finance and Accounting Department misappropriated City of Jacksonville Risk Management claims payments.

GOVERNING DIRECTIVES

Florida Statutes

Chapter 812, Theft, Robbery, and Related Crimes

- §812.014, *Theft*

Chapter 817, Fraudulent Practices

- §817.034, *Florida Communications Fraud Act*

Chapter 838, Bribery, Misuse of Public Office

- §838.022, *Official Misconduct*

Chapter 896, Offenses Related to Financial Transactions

- §896.101, *Florida Money Laundering Act*

City of Jacksonville Ordinance Code***Chapter 601, Offenses Against Operation of Government***

- §601.101, *Use of public property; and*
- §Section 601.404, *Officer or employee trading in public property.*

INVESTIGATIVE FINDINGS

OIG RECORDS REVIEW

The OIG reviewed various records, including applicable Florida Statutes, City of Jacksonville (COJ) *Ordinance Code*, and Risk Management Division (Risk Management) records. Relevant records are highlighted below, verbatim and in part:

Florida Statutes

§812.014, *Theft*, specifies, in part:

(1) A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to, either temporarily or permanently:

(a) Deprive the other person of a right to the property or a benefit from the property.

(b) Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.

(2)(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:

3. Valued at \$10,000 or more, but less than \$20,000.

§817.034, *Florida Communications Fraud Act*, specifies, in part:

(3) (d) "Scheme to defraud" means a systematic, ongoing course of conduct with intent to defraud one or more persons, or with intent to obtain property from one or more persons by false or fraudulent pretenses, representations, or promises or willful misrepresentations of a future act.

(4) *OFFENSES.* -

(a) *Any person who engages in a scheme to defraud and obtains property thereby is guilty of organized fraud, punishable as follows:*

3. If the amount of property obtained has an aggregate value of less than \$20,000, the violator is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

§838.022, Official misconduct, specifies, in part:

(1) It is unlawful for a public servant or public contractor, to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another, by:

(a) Falsifying, or causing another person to falsify, any official record or official document;

(3) Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

§896.101, Florida Money Laundering Act, specifies, in part:

(3) It is unlawful for a person:

(a) Knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, to conduct or attempt to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity:

1. With the intent to promote the carrying on of specified unlawful activity; or

2. Knowing that the transaction is designed in whole or in part:

a. To conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity;

(5) A person who violates this section, if the violation involves:

(a) Financial transactions exceeding \$300 but less than \$20,000 in any 12-month period, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

COJ Ordinance Code

Section 601.101, Use of public property, specifies, in its entirety:

It is unlawful for an officer or employee of the City or an independent agency to knowingly use property owned by the City or an independent agency for his or her personal benefit, convenience or profit, except in accordance with policies promulgated by the council or by the governing body of the independent agency owning the property.

Section 601.404, Officer or employee trading in public property, specifies verbatim, in its entirety:

It is unlawful for any officer or employee of the City or an independent agency concerned in the collection or disbursement of the revenues of the City or an independent agency to carry on any trade or business with the funds or debts or with any public property of the City or an independent agency, for any purpose other than official responsibilities. Upon conviction and adjudication of guilt, he or she shall be fined in an amount equal to the value of the property traded in or imprisoned for not more than one year, or both. A person convicted and adjudicated guilty under this Section shall be incapable of holding any office or employment with the City or an independent agency involving the collection or disbursement of public funds.

Risk Management Division Records**Risk Management Claim Number 1920 00038**

A review of Risk Management records for Claim Number 1920 00038, as documented in Risk Management's electronic case management system (Origami), disclosed that an initial claim was opened on January 7, 2019, and a check was issued to co-payees, Claimant 1 and Claimant 2,¹ on January 31, 2019. According to Preston's case notes, provided verbatim below, in part, a supplemental claim was opened on July 1, 2019:

Claimant has a public adjuster.

I went out to property to meet with the public adjuster to discuss the additional items on the claim that could not be seen unless destructive testing had been completed at the initial inspection/estimate. Met with Ken Watkins last week at the risk.

Preston also documented that he obtained the public adjuster services agreement. According to a review of Risk Management records, Preston uploaded both the public adjuster services agreement and the IRS W-9 Form (W-9) for the public adjuster, TPG Claims Services, LLC (TPG) into Origami on July 1, 2019.

¹ Names of all Claimants intentionally omitted throughout this Report of Investigation.

Risk Management Claim Number 1920 00775

A review of Risk Management records for Claim Number 1920 00775, as documented in Origami, disclosed that an initial claim was opened on April 15, 2019, and a check was issued to Claimant 3 on April 17, 2019. According to Preston's case notes, provided verbatim below, in part, a supplemental claim was opened on August 13, 2019:

*Received supplemental damages and public adjuster rep letter.
The claimant lives out of town and has an adjuster handling the supplement.
the additional damages claimed were that chain length fencing had to be replaced and cannot be detached and reset.
The amount of fencing that need to be replaced is 30 LF. The damage amount is \$963.00.*

Unlike Claim Number 1920 00038, there was not a public adjuster services agreement uploaded into Origami for Claim Number 1920 00775.

TPG IRS W-9 Form

Per a review of the W-9 form for TPG, the federal tax classification was listed as "Individual/sole proprietor or single-member LLC" with a corresponding address of 150 Busch Drive, Unit 26295, Jacksonville, Florida 32226.² It appeared to be signed in the name of "Ken Watkins"³ and was dated May 1, 2019. According to COJ e-mail records, Preston scanned the TPG IRS W-9 form to his COJ e-mail account on July 1, 2019, at 8:39 a.m.

Public Insurance Adjuster Services Agreement

Per a review of the "Public Insurance Adjuster Services Agreement" dated May 1, 2019, the public adjuster's name was "Ken Watkins," and the State of Florida Adjuster License Number was listed as A221400. The public adjuster services agreement was signed in the name of "Ken Watkins" and Claimant 1. According to COJ e-mail records, Preston scanned the public adjuster services agreement to his COJ e-mail account on July 1, 2019, at 9:30 a.m.

E-mail to Risk Management Appraisal Vendor

In a June 27, 2019 e-mail, Preston e-mailed an employee of Inspection Depot (a company used by Risk Management to conduct appraisals) regarding COJ Claim Number 1920 00038 and stated verbatim, in part:

[Inspection Depot employee], we need a supplement written on this claim. They have a public adjuster and have identified other items . . . The original estimate is attached. You can write a desk estimate on the items below. No need to go back out . . .

² According to Duval County Property Appraiser records and Google Maps, 150 Busch Drive, Jacksonville, Florida 32226 is United States Postal Service location.

³ The OIG did not independently verify if "Ken Watkins" was a real individual.

Risk Management Division Payment Records

A review of Risk Management payment records disclosed that five checks, totaling \$15,236.80 were issued to TPG:

<u>COJ Claim Number</u>	<u>Check Number</u>	<u>Issue Date</u>	<u>Amount</u>
1920 00038	147628	July 1, 2019	\$11,281.80
1920 00038	147657	July 9, 2019	\$995.00
1920 00038	147658	July 9, 2019	\$1,000.00
1920 00038	147702	July 16, 2019	\$997.00
1920 00775	147967	August 13, 2019	\$963.00
Total Amount Paid to TPG			\$15,236.80

State of Florida Records***Department of Financial Services***

A review of Department of Financial Services records revealed no one by the name of “Ken Watkins” had a valid State of Florida Adjuster License as of November 16, 2020. In addition, the review disclosed that the State of Florida Adjuster License Number (A221400) listed for “Ken Watkins” on the above-mentioned public adjuster services agreement was associated with another individual. The review also disclosed that A221400 was only one digit off from Preston’s State of Florida Adjuster License Number, A211400.

Division of Corporations

A search of Division of Corporations records disclosed that Preston was listed as the registered agent and manager of TPG (active from January 31, 2018 through September 27, 2019). According to the Division of Corporation records, TPG’s address was different than what was listed on the TPG W-9 (referenced on page 7). The review disclosed that Preston was also listed as the registered agent and president for a church located in Jacksonville, Florida (active from October 10, 2019 through September 25, 2020), with a corresponding address of 150 Busch Drive, Number 26295, Jacksonville, Florida 32226.

TESTIMONY***Statement of Public Liability Claims Manager, Risk Management Division, Finance and Accounting Department***

The Public Liability Claims Manager (Claims Manager) had been employed in her current position since December of 2012. As Public Liability Claims Manager, her duties, in part, included the management of a team of claims adjusters.

On October 29, 2020, the Financial and Administrative Manager, Risk Management, Finance and Accounting (Financial and Administrative Manager), met with the Claims Manager. The Financial and Administrative Manager informed her that the IRS had returned an IRS Form 1099 (1099) to Risk Management because the tax identification number documented on the 1099 for TPG was invalid. The Financial and Administrative Manager also advised that she had researched the Division of Corporation records using the tax identification number listed on TPG's W-9 and found that the tax identification number was not valid.

After meeting with the Financial and Administrative Manager, the Claims Manager telephonically contacted Claimant 1 and advised she was trying to get in contact with "*Ken Watkins*." According to the Claims Manager, Claimant 1 stated to her that he had not hired a public adjuster.

Later in the evening on October 29, 2020, the Claims Manager searched the Division of Corporation records using the search term "*TPG Claims Services*." The search results revealed that TPG was registered to Preston. Prior to these events, the Claims Manager had never heard of TPG and had been unaware that Preston had any association with TPG. She also reviewed Preston's COJ employment application and saw Preston had documented working for TPG.⁴

On November 2, 2020, the Claims Manager met with the CFO and apprised him of the above-mentioned information she had uncovered.

Regarding the approval of claims payments, the Claims Manager explained that Preston was authorized to approve payments that were \$1,000 or less. Therefore, the three checks that were \$1,000 or less (Check Numbers 147657, 147658 and 147702, refer to page 8) would not have been approved by her.

Note: At the time of this interview, it was unknown that Preston had also approved a payment to TPG for an alleged supplemental claim by Claimant 3 (Check Number 147967, in the amount of \$963), referenced on page 8, and was therefore not addressed during the interview.

The Claims Manager advised that anything \$1,001 or greater would have been approved by her. She stated she approved Check Number 147628 (\$11,281.80) and stated she had been "*horrified*" and "*sick to my stomach*" after learning that Preston was associated with TPG. The Claims Manager estimated that she approved approximately 200 checks a month and tried "*to be conscientious about it*."

Jacksonville Sheriff's Office Integrity/Special Investigations Unit Investigation

Pursuant to Section 602.303(j), *Ordinance Code*, this matter was referred to the Jacksonville Sheriff's Office Integrity/Special Investigations Unit (JSO Integrity). JSO Integrity interviewed

⁴ A review of Preston's COJ employment application revealed that Preston reported that he had owned TPG and worked as a Claims Adjuster and Risk Management Consultant from December of 2012 through July of 2018.

Claimant 1 and Claimant 3, and both denied that they submitted supplemental claims as had been documented by Preston.

JSO Integrity discovered that the combined \$15,236.80 approved for Claimant 1's and Claimant 3's supplemental claims had been deposited into Preston's TPG business bank accounts in July and August of 2019. Preston had also wired \$12,900 to a title company in July of 2019 and purchased a residence in August of 2019.

Based on this information, JSO Integrity obtained an arrest warrant for Preston for the offenses of Grand Theft, Organized Fraud, Official Misconduct, and Money Laundering (one count each). On January 21, 2021, Preston was arrested on the warrant and interviewed by JSO Integrity. Preston admitted he had misappropriated the money.

CONCLUSION

Based on records reviewed and testimony obtained, the allegation that Preston misappropriated Risk Management claim payments totaling **\$15,236.80** to TPG, a company registered to Preston, is *substantiated*.

RECOMMENDED CORRECTIVE ACTIONS

The OIG does not have any recommended corrective actions relating to this investigation based on the proactive actions taken by Risk Management immediately after reporting the misappropriation to OIG. As of mid-January, Risk Management strengthened their internal controls by separating the duties related to the creation and verification of vendors between various Risk Management Divisions. The separation of duties precludes Risk Management claims adjusters, or any Risk Management employee who has the ability to issue checks, from creating vendors altogether.

On March 18, 2021, prior to the issuance of the draft Report of Investigation, the OIG met with the CFO and the Chief of Risk Management to review and discuss the actions taken by Risk Management related to the strengthening of internal controls.

IDENTIFIED, QUESTIONED, AND AVOIDABLE COSTS

Identified Costs: \$15,236.80

Questioned Costs: N/A

Avoidable Costs: N/A

Identified Costs is defined as losses from disbursements or activities associated with fraudulent or negligent activity, or mismanagement, which have a substantial likelihood of recovery. Identified costs are those associated with disbursement or activities of the Consolidated Government.

The identified costs of **\$15,236.80** resulted from the issuance of five checks issued improperly to Preston and are referenced on page 8 of this report.

PRESTON'S RESPONSE

On March 22, 2021, the OIG hand delivered copy of the draft Report of Investigation to Preston's legal representative. The OIG provided Preston an opportunity to submit a written explanation or rebuttal to the findings in the draft Report of Investigation, due on or before April 1, 2021. No response from Preston was received.

MANAGEMENT COMMENTS AND CORRECTIVE ACTIONS

On March 22, 2021, the Chief Administrative Officer, Office of Mayor Curry, City of Jacksonville, Florida, was provided the opportunity to submit a written explanation or rebuttal to the findings as stated in this draft Report of Investigation, due on or before April 12, 2021. On April 9, 2021, the CFO requested an extension, which the OIG granted, until April 16, 2021. On April 19, 2021, the CFO forwarded a written response dated April 14, 2021, from the Chief of Risk Management attached in its entirety to this report.

As part of the response, the Chief of Risk Management advised that Risk Management has strengthened internal controls by implementing new processes, which in part, include separation of duties related to vendor creation and check issuance authority; a formal review process for closing claims and Risk Management has ceased the practice of claims adjusters delivering checks in person and requiring that all payments will be mailed or issued at the Risk Management Office.

The Management response captures the internal controls that have been established and were discussed during the March 18, 2021 meeting referenced under Recommended Corrective Actions.

Attachment:

- 1- Management Response, dated April 14, 2021

cc: IG Distribution 2021-0001

This investigation has been conducted in accordance with the ASSOCIATION OF INSPECTORS GENERAL Principles & Quality Standards for Investigations.



ONE CITY. ONE JACKSONVILLE.

City of Jacksonville, Florida

Lenny Curry, Mayor

Department of Finance
Risk Management Division/Safety
117 W. Duval Street, Suite 335
Jacksonville, FL 32202
(904) 255-5327
citysafe@coj.net

DATE: April 14, 2021

TO: Lisa A. Green, Inspector General
Office of Inspector General

FROM: Tracy A. Flynn, Chief of Risk Management
Finance and Administration, Risk Management

SUBJECT: Draft Report of Investigation
Office of Inspector General Investigation Number 2021-0001

Dear Ms. Green,

The Department of Finance and Administration Risk Management Division would like to thank you for your thorough investigation and assistance with the above matter. Through our collaborative efforts and partnership, we have put corrective actions in place in Risk Management that will mitigate a similar issue from occurring in the future.

Effective January 6, 2021, we implemented the following controls and work processes to separate duties related to vendor creation and check issuance authority in Risk Management:

1. Vendor creation and check issuance can no longer be done by the same person. Employees will forward W-9's for new vendors to our finance staff for verification and entry into the system. Check requests can then be input by the adjuster or manager.
2. We've instituted a formal review process for closing claims. The System Administrator will perform this review function and is largely independent from day-to-day decision making. These reviews will include the timing and appropriateness of vendors and payments. Due to claim volume, random sampling will be conducted within 60 days of final action/closing and prompted by our internal tracking system.
3. Claims adjusters will no longer be authorized to deliver checks in-person. All payments will be mailed or issued at the Risk Management office.

We feel that the above measures greatly reduce operational risk and welcome any further feedback. We value the partnership with Office of Inspector General and look forward to our continued cooperation. Please feel free to contact me if there is any further information needed or if you would like to discuss this issue or any other issue in the future.

Regards,

Tracy A. Flynn

cc: Stephanie Burch, Deputy Chief Administrative Officer
Marlene Russell, Director of Organizational Effectiveness
Patrick "Joey" Grieve, Chief Financial Officer