





MIAMI BEACH

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

TO: Jorge M. Gonzalez, City Manager
VIA: Kathie G. Brooks, Budget and Performance Improvement Director 
FROM: James J. Sutter, Internal Auditor 
DATE: December 1, 2008
AUDIT: Spectacor Management Group Close-out Audit of the Convention Center, Colony Theatre and Byron Carlyle Theatre
PERIOD: as of July 31st, August 31st or September 30th, 2008 (based on the records available)

This report is the result of a specially requested audit by City Management due to the City Commission's recent selection of Global Spectrum to replace Spectacor Management Group (SMG) who had operated the Convention Center and other various City facilities for the past eighteen years.

INTRODUCTION

The City of Miami Beach has operated a Convention Center since 1958. The building was expanded in 1968, in 1974, and was again expanded and totally renovated in 1987. Since that time, the City has invested an additional \$35 million in capital improvements to the facilities. The Convention Center currently has a pending list of capital improvements valued at approximately \$16,400,000 which excludes expansion.

The Convention Center is approximately 1.1 million gross square feet, with about 502,000 square feet of exhibition space. The 2007/08 fiscal year operating budget for the Convention Center is \$9,502,883 and does not include depreciation, management service fee or debt service; the Colony Theatre operating budget is \$425,799; and the Byron Carlyle Theatre operating budget is \$312,215.

On December 19, 1990, the City entered into a Management Services Agreement with Spectacor Management Group or SMG for the operation and management of the Miami Beach Convention Center (MBCC) and the Jackie Gleason Theater of the Performing Arts (TOPA). The City Commission renewed this agreement, several times in substantially the same form until the passage of Resolution No. 2004-25645 on July 28, 2004 when SMG was given additional management oversight of the Bryon Carlyle Theatre, the Colony Theatre and the Little Stage Theatre.

On June 21, 2007 the City Commission selected Live Nation to operate TOPA, changing the name of the venue to The Fillmore Miami Beach at the Jackie Gleason Theatre. The Live Nation agreement ends on August 31, 2017 but can be extended for an additional five years by the contractor provided that designated conditions are met. Although SMG no longer operated this facility, they remained responsible for the building's maintenance.

Then the City Commission through the passage of Resolution No. 2008-26860 authorized the City Administration to enter into negotiations with Global Spectrum for the management and operation of the Convention Center, Colony Theatre and Byron Carlyle Theatre as of October 1, 2008 thereby ending SMG's eighteen year affiliation with the City.

OVERALL OPINION

Due to the availability of financial records, selected general ledger balances and payouts were typically confirmed as of July 31, 2008, August 31, 2008, or September 30, 2008, depending on the documentation completion and availability. The records reviewed were easily located, properly organized and well maintained.

All tested objectives were approved in advance by the City Administration and are discussed separately in each of the areas listed below. In summary, Internal Audit believes that the balances reviewed below reasonably represent the amounts listed on SMG's records for the corresponding audited period. In addition we questioned the following expenditures:

- Legal fees of \$162,276.56 paid to the law firm of Rosen, Switkes & Entin were incurred by SMG in defense of a wrongful termination lawsuit filed by SMG employee Louis Perrero.
- Two travel expense reports totaling \$3,129.20 were submitted by SMG Corporate officials whose trip's business purpose were not identified and may have been to strategize on how to retain the City contract.
- Federal Express was paid \$1,290.68 to ship SMG's records back to their corporate offices in Philadelphia, PA.
- Three SMG employees received a combined total of \$19,458.53 in excess for severance pay due to incorrectly included time spent working for SMG at non-Miami Beach facilities. In addition the payment of this severance pay totaling \$133,056.91 appears not to be for normal operating expenses, as stated in the management agreement, but rather for the termination of the agreement.
- SMG Corporate currently owes the City \$2,459.00 due to the payment of relocating expenses for the former Assistant General Manager through payroll.

Performed testing was more limited than would be necessary to express an audit opinion. Accordingly, we do not express such opinion. Alternatively, we have identified the findings that resulted from such tests performed.

PURPOSE

The purpose of this audit was to determine the reasonableness of certain general ledger accounts held by Spectacor Management Group to be relinquished to the City in order to facilitate the transition to Global Spectrum as of October 1, 2008. Where there are recommendations to improve procedures, they have been forwarded to City administration for review with Global Spectrum. In addition, a cursory review of selected expenditures was performed to ensure that expenses are supported by sufficient documentation.

OBJECTIVES AND TESTING RESULTS

1. Objective: *Confirm that accounts receivable balances are valid and represent actual monies owed.*

Results: As of August 31, 2008, SMG showed sixteen account receivable balances on the General Ledger for a combined total of \$1,462,892.32, not including allowances for doubtful accounts. Ending balances as of September 30th,

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2008 were not yet available, as SMG employees were working on the month and fiscal year end books closing. The following table illustrates the sixteen accounts and their balances as of August 31, 2008:

G/L ACCT. #	DESCRIPTION	BALANCE PER GENERAL LEDGER
12001	A/R CONTROL	\$ 487,636.12
12002	A/R FOOD & BEVERAGE	\$ (91,016.40)
12005	A/R OTHER - RENT A PC	\$ 1,706.65
12006	A/R AUDIO VISUAL	\$ -
12007	A/R TELEPHONE	\$ 11,249.25
12008	A/R ELECTRICAL EDLEN	\$ 33,862.31
12009	A/R ELECTRICAL EDD HELMS	\$ 56,105.46
12010	A/R ELECTRICAL TRI CITY	\$ 6,750.4
12011	A/R ELECTRICAL OTHER	\$ -
12012	A/R NEW WORLD SYMPHONY	\$ 34,097.89
12016	A/R TICKET MASTER	\$ 785.00
12019	A/R CITY	\$ 5,639.92
12037	A/R CITY FUNDING	\$ 703,574.14
12049	A/R SMG CORPORATE	\$ 65,235.49
12050	A/R SMG OTHER BILLINGS	\$ -
12051	A/R OTHER INTER CO. - COLONY	\$ 71,564.00
12052	A/R OTHER INTER CO. - BYRON	\$ 36,156.00
12053	A/R BYRON CARLYLE DUE FROM MBC	\$ 15,493.00
12054	A/R COLONY DUE FROM MBCC	\$ 24,053.00
12060	A/R OTHER	\$ -
TOTALS		\$ 1,462,892.32

Notes:

- a) The amount of \$ 1,462,892.32 represents gross balances. Accounts receivables net of allowance for doubtful accounts were \$ 1,396,745.13 as of August 31, 2008. Total Allowance for doubtful accounts was \$ 66,147.19 as of August 31, 2008.
- b) Amounts reflected on G/L account number 12049 (A/R SMG Corporate) represents director salaries paid directly from the City to SMG that needs to be deposited on the Convention Center's accounts. The balance for this account should be zero at year end.

In order to verify these balances, a copy of the Accounts Receivable Aging report was requested. However, the Accounts Receivable Aging report reflected only those outstanding receivables on the A/R Control Account, which excludes other accounts receivables for commissions earned from different concessions with sub-contractors, management fees earned, receivables for City funding requirements, and Communication tower usage rentals. As a result, additional supporting documents for the remaining accounts were requested to substantiate the account activity and ending balances. All Information and support was provided by SMG employees

accordingly.

The balance for the "Accounts Receivable Food and Beverage" account was reflected as a credit balance, therefore reducing the overall balance of accounts receivable. Testing results and inquiries showed that the credit balance on the account was the result of commissions paid for event food, beverage, and catering in excess of commissions earned. Therefore, Internal Audit recommends reclassifying any credit balance receivables to the appropriate deferred revenue or liability account, which would better reflect the true balance for receivables. The overpayment of food and beverage commissions as of August 31st, 2008 was \$91,016.40, which may be different at fiscal year end.

Considering that the "Accounts Receivable Control" account represented fifty-seven percent (57%) of the total gross receivable balance, excluding Accounts Receivable for City Funding, Internal Audit selected a sample of all customer and/or subcontractor accounts with a balance over \$4,000.00. As a result, files and invoices were reviewed for eighteen accounts with a combined balance of \$436,804.59 or ninety percent (90%) of the total balance on the "Accounts Receivable Control". No exceptions were noted from the reviewed documents.

In addition, Internal Audit selected a sample of seven credit memos issued in order to determine the validity of the same. One of the selected credit memos for the amount of \$1,771.74 could not be found, while supporting documentation for the remaining six was provided.

Testing showed that credit memos were being issued to correct receivable input or invoice creation overstatements. It was observed that invoices were completed for the customers holding the events; however, payments for the events are also received from subcontractors of the event holder or other organizations, depending on what agreements were made. If the name on the check does not match the name of the event holder, and because the system does not allow posting any payments received to cash, an invoice was created to record the cash payment received with the name reflected on the check. This represented a duplicate entry for accounts receivable and in order to correct it, credit memos had to be issued to the event holder's account. As a result, there is a risk that monies received for which the event holder could not be identified would be entered a second time with the name of the organization making the payment.

2. Objective: *Confirm that cash held in the banks are valid and that timely reconciliations are performed.*

Results: SMG maintained seven different active bank accounts varying by facility (MBCC, Byron Carlyle/Colony Theatres) and function (operating, escrow and payroll). Reviewed August 2008 bank reconciliations were completed timely, within thirty days of month end, and properly by SMG staff. The following is a listing of the accounts and their reconciled balances as of August 31, 2008:

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ACCOUNT NAME	NUMBER	RECONCILED BALANCE
MBCC OPERATING	3200398706	\$ (11,230.74)
MBCC ESCROW	3200398719	\$2,355,594.91
MBCC BOX OFFICE	3200398722	\$ 23,411.71
TOPA OPERATING (a)	3200398696	\$ 105,918.57
TOPA BOX OFFICE (a)	3200398670	\$ 67,065.37
TOPA ESCROW (a)	3200398683	\$ 22,733.67
PAYROLL	3200441543	\$ 61,821.33

(a): "TOPA" accounts are used to record the financial activity of the Byron Carlyle and the Colony Theaters. The account names have not been updated on the chart of accounts, the general ledger or the bank statements. The Theater Of Performing Arts (TOPA) is no longer operated by SMG as of June 21, 2007.

Each bank account and corresponding reconciliation was analyzed. Six questioned voided checks were found to be properly accounted for. In addition, two cash withdrawals of \$10,000 and \$30,000 used to provide change for public shows were scrutinized. Proper documentation and approvals were noted and the monies were returned, less an immaterial \$37 cash shortage, via Brinks to Citibank shortly after the shows' conclusion.

Internal Audit noted that SMG prepared manual checks in August 2008 primarily for union dues, child support payments and event settlement refunds. SMG staff said that these checks were issued manually because they needed to be done timely and could not always wait for the end of the month check run.

Although all tested manual checks properly contained two signatures and appeared to be for valid purposes, it does increase the risk that someone could bypass system controls and misappropriate monies. Therefore, Internal Audit believes that all non-payroll checks should be automated and run through the designated software system, while all payroll checks should be cut by Automated Data Processing or ADP. Global Spectrum agrees and will have two check runs per month with no more manual checks issued.

Finally, Internal Audit noticed that Citibank billed August 2008 service charges totaling \$373.81 for TOPA box office and \$192.08 for MBCC payroll. We questioned why Citibank was used rather than SunTrust, which handles all the City's monies and does not typically bill the City for service charges. SMG staff said that these accounts were created a long time ago and have just been carried forward. We were subsequently told that Global Spectrum plans to move all the bank accounts to SunTrust.

3. Objective: *Confirm that deposits held in escrow for future events are complete and are recorded correctly.*

Results: A schedule of Convention Center events was obtained and ten future events were selected for testing. All the corresponding event files were easily located and they contained the desired information.

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The event files' Contract Status Reports and Settlement of Proceeds were reviewed as they identified the amounts due and by what date, as well as if and when they were received. The deposit amounts received were then traced to July 2008's Cash Escrow Account and Advance Deposit Report Reconciliation. All were present except for two that were received after the report was run (one on 08/11/08 and the other on 09/12/08).

This report was properly reconciled to the July 2008 SMG escrow bank statement and all sampled deposits were accounted for. Testing was performed as of July, since the August statements and reports were not initially available for our review. Therefore, Internal Audit feels reasonably assured that the deposits held in escrow for future events for a combined amount of \$2,378,328.58 (\$2,355,594.91 for MBCC and \$ 22,733.67 for the Colony and Byron Carlyle Theatres) are complete and are recorded correctly as of July 31, 2008.

4. Objective: *Confirm that advance ticket sales are properly recorded and safeguarded for future events.*

Results: Inquiries revealed that SMG in essence had stopped promoting future events at the Colony and Byron Carlyle Theatres when they knew that they had lost the City contract as of 09/30/08. Therefore, there were only two remaining future shows scheduled, Asia Song on our Soil at the Colony Theatre on 10/10/08 and The Eric Vloeimans Trio held at the Byron Carlyle Theatre on 10/10/08, with advance ticket sales.

The advance ticket sales 09/30/08 balance of \$65.00 was collected by Ticketmaster. We reviewed the provided Ticketmaster reports and found the listed payments to be in agreement with the amounts deposited in SMG's bank statements.

One thing of note was the amount of fees charged by Ticketmaster and how much they can vary. For example, a deposit of \$39.90 was made on the \$40.00 received for the Asia Song on our Soil show. Yet, only \$15.25 was received from the \$25.00 payment to attend the Eric Vloeimans Trio event. We did not perform any testing to determine if these fees were reasonable or if they were within industry standards.

5. Objective: *Confirm whether any retained deposits for past events should be returned to the event promoters or need to be transferred to the operating account.*

Results: Internal Audit reviewed the July 2008 Cash Escrow Account and Advance Deposit Report Reconciliation looking for any retained deposits from past MBCC events. Testing was performed as of July, since the August statements and reports were not initially available for our review. Six events were identified with one (IBEX dated 11/01/06) containing a \$.50 immaterial difference excluded from further analysis.

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The event files for these remaining five were reviewed and all had been fully settled based upon review of the records present. The \$4,500 listed shortage for the EXXXotica show was completely offset by the \$4,500 overage from the Microsoft Tech Tour. SMG staff will adjust these accounts to reflect a zero balance. Meanwhile, the monies retained in escrow for the remaining three events (Trafik Tradeshow, CBS Television and Tetrak Pak Mixo Walkout) should be moved to the operating bank account. Two have since been transferred with only the deposit monies in the amount of \$4,681.25 for the Tetrak Pak Mixo Walkout event not yet corrected due to temporary difficulties in accessing the bank accounts during the transition.

6. Objective: *Confirm that tested unpaid expenses have been accrued and are reported on the contractor's records.*

Results: During our testing, we learned that to recognize some of the accruals for each month, SMG personnel would not contact those vendors for which the invoices had not yet been received in order to recognize the actual amounts or the best estimate for the expenses to be accrued. Accrued expenses account totaled \$278,142.86 as of August 31, 2008.

In addition, monthly accruals already recorded would automatically reverse at the beginning of the next month to allow for the recording of the correct expenses and account for any discrepancies, should any exist. However, Internal Audit found at least 6 accrued expenses totaling \$10,621.75 (adjusting journal entry or AJE number 280821 dated 09/19/2008) that started being accrued since 2006 or 2007's Boat Show and have not been paid as of yet. The accrued amounts represent City charges for fire personnel and traffic control personnel. The accruals were reversed at the beginning of every month, but because no invoices were received from the City, the amount continued to be re-entered and re-accrued each month with the balance being continually carried forward. The reason for carrying the accrued balance forward was explained to be the result of one of two possibilities:

1. The City may not have invoiced SMG for the expenses, or
2. The accrued amount may have been overstated

However, SMG should follow up on accrued amounts to verify and ensure any adjustments prior to the end of every fiscal year. Over or under estimating the accrued expense could result in a potential departure from Generally Accepted Accounting Principles' (GAAP) Matching Principle if paid in a future year (any difference would be recorded in a future year and not in the period incurred or earned).

Furthermore, there was a carrying forward balance in the Accrued Expenses account that has been carried forward many years. The carrying amount was estimated to be approximately \$30,000.00 and has never been reconciled. Therefore, Internal Audit recommends the reconciliation of accrued expenses and the follow up of any outstanding invoice accrued prior

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to year end.

7. Objective: *Confirm that there are no unusual expenses paid by the contractor over those necessary to conduct business on behalf of the management agreement.*

Results: Invoices were reviewed to determine whether they are non-qualified expenditures that should have been paid by SMG rather than by the City. Our first step was to review the August 31st and September 30th check runs looking for anything unusual. SMG's vendor files for the current fiscal year were checked for authenticity. Any vendor whose business purpose was not immediately known was further investigated on the Internet. Inquiries were also made with SMG personnel to learn of vendors' business relationships with SMG.

Internal Audit is questioning the following expenditures which appear to not be operating expenses:

- a. SMG employee Louis Perrero was terminated in 2005 and shortly thereafter filed a lawsuit against the company. Associated legal fees totaling \$162,276.56 were paid to the law firm of Rosen, Switkes & Entin. While this SMG employee worked at the Miami Beach Convention Center, we believe that this cost is a result of defending SMG's management practices and should be borne solely by them. In addition, no evidence was found that the City agreed to reimburse SMG for these fees. This item has been forwarded to the City's Legal Department for further review.
- b. Two travel expense reports were submitted by Bob McClintock and Shauna Elvin for \$1,224.41 and \$1,904.79 respectively. These two individuals work for SMG corporate in Philadelphia, PA and traveled to Miami Beach in July and August 2008. The expense reports did not include any specific business reason. For example, the McClintock report listed the purpose as "client meeting" for 7/22/08 and no business purpose was listed for Elvin's report. SMG staff questioned said that the travel may have been related to making an effort to try and convince the City Commission to renew SMG's contract. SMG should clarify the business purpose of these expenditures prior to the City accepting the merits of this expenditure. Bob McClintock stated via an 11/26/08 e-mail that his trip's business purpose was to commence the transition process but Shauna Elvin's included both and will be absorbed by SMG.
- c. Federal Express invoice numbers 2-923-49444 and 2-914-12264 totaling \$1,290.68 were for sending SMG's records back to their corporate offices in Philadelphia. We feel that this expense does not relate to the operating cost of the facilities but rather to the management company and should be paid by SMG. Bob McClintock stated via an 11/26/08 e-mail that this cost should be paid by SMG.

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and managing the Facility, including, but not limited to: employee compensation and related expenses (e.g., base salaries, bonuses, severance and car allowances)". The City agreed to the severance payout policy of one week for every one year worked at the MBCC for those employees not retained.

The City's Tourism & Cultural Development Director provided a Severance Payout Report that listed the amounts payable to the thirteen applicable employees totaling \$133,056.91. One employee named Luckrisha Anderson was subsequently retained by Global Spectrum after her severance pay was received (approved by the Tourism & Cultural Development Director). Internal Audit confirmed that all payroll severance payouts correctly equaled those listed on the schedule provided. However, it was noted that the severance schedule incorrectly included time spent working for SMG at non-Miami Beach facilities for three employees. As a result, SMG should reimburse the City \$19,458.53 for the overpayments in severance pay and has been agreed to by SMG's Bob McClintock via e-mail.

While the management agreement's definition of operating expenses includes severance as an example, we feel that severance pay is not a result from promoting, operating, maintaining and managing the facility and therefore is not an operating expense. Severance payments usually are voluntary payments and are not required by law. In addition, the City should not incur a financial burden for changing contractors or agents in connection to expiring contracts or service agreements. Therefore, Internal Audit believes that the City should contest the payment of this severance pay. This matter has been forwarded to the City's Legal Department for further review.

In addition, the City should ensure that severance pay is excluded from the current agreement with Global Spectrum. The City's Tourism & Cultural Development Director said that this item has been removed from the Global Spectrum agreement being finalized.

Fiscal Year End Bonus

The City's Tourism & Cultural Development Director provided a Bonus Report detailing the authorized payouts for the six applicable SMG management employees. All calculations were correct based on the listed information and the subsequent payouts were deemed accurate.

However, review of SMG's payroll for the pay period ending 09/14/08 found that the former Assistant General Manager was granted an additional \$10,000 bonus for relocation expenses. It was subsequently determined that the corresponding \$6,735.00 check after deductions for federal taxes, social security and Medicare was issued by SMG Corporate and paid with their funds. Therefore, SMG owed the City for the difference of \$3,265.00 plus the employer's portion of social security and Medicare taxes.

The employee on 09/22/08 paid \$620.00 for social security via personal check # 201. Upon notification, SMG Corporate sent a \$951.00 check for the

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aforementioned employer's portion. Given these payments, it was calculated that SMG Corporate still owes the City \$2,459.00, which was previously paid from the City's payroll account. The following illustration summarizes how we arrived to the amount of \$2,459.00 owed to the City:

Amount owed to the City:

Bonus gross amount:	\$10,000.00
Social Security Tax (Employer portion) paid to IRS:	\$ 620.00
Medicare Tax (Employer portion) paid to IRS:	<u>\$ 145.00</u>
Total gross amount owed to the City:	\$10,765.00

Less payments and monies funded:

Employee payment received:	\$ (620.00)
SMG payment received:	\$ (951.00)
Net check (Check # 00006000) funded by SMG:	<u>\$(6,735.00)</u>

Total amount (net) still owed to the City: \$ 2,459.00

Based on the above information, the amount of \$2,459.00 should be paid by SMG or deducted from their incentive fees. SMG is requesting additional information on this subject before a final determination is made.

JJS:mc:fm

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(Audit performed by Mark Coolidge and Fidel Miranda)

cc: Hilda Fernandez, Assistant City Manager
Patricia Walker, Chief Financial Officer
Max Sklar, Tourism and Cultural Development Director