

## **THE BOWL ‘CHARITY’ SERIES**

The Bowl Championship Series (BCS) plays a major role in the world of college athletics. Every year, the BCS decides the NCAA Division I football National Champion. The BCS is comprised of four “Bowl Organizations” that each enjoy 501(c)(3) tax exempt status as charitable public benefit organizations, and each has done so since World War II. These Bowl Organizations are the Rose Bowl, the Sugar Bowl, the Orange Bowl, and the Fiesta Bowl. The IRS, in their Letters of Recognition of 501(c)(3) status to each Bowl Organization, states that the public benefit these organizations offer is “educational.”

Despite being considered “charitable” organizations for tax purposes, the BCS Bowl Organizations are currently under attack for instead serving private interests. Although the actual percentage of revenues a “charitable” organization donates to charitable causes is not a true indicia of being considered a “charitable organization” for 501(c)(3) status, it is a good measurement to compare with an organization’s other expenditures. In 2011, the BCS held 23 bowl games that produced \$186.3 million. The total charitable contribution for the BCS was \$3.2 million, or a mere 1.7% of revenue. When considering whether a Bowl Organization fails the private inurement requirement of the operational test for 501(c)(3) status, it will not “look good” if the organization paid its Executive Officers more in salary and benefits than money they donated to charitable causes.<sup>1</sup>

The most criticized Bowl Organization of the four is surely the Fiesta Bowl. In the last Fiesta Bowl on January 2013, the Oregon Ducks defeated the Kansas State Wildcats in Glendale, AZ. The Fiesta Bowl reported total assets of about \$25 million at the end of the fiscal year, and they generated about \$16 million in revenue from the game alone making a \$2 million profit. However, over the last four to five years schools averaged a loss of around \$350,000 to play in a

BCS bowl game, and for some the loss was as high as \$2 million. A University of Oregon spokesperson commented on the non-financial benefits in 2011 after the second most recent Fiesta Bowl victory for the Ducks, likely in an attempt to justify the monetary loss associated with playing in such games, “Obviously, the exposure you can’t buy. Then there are all the other things that go with it . . . in terms of applications from non-athletes going up, and the quality of applicants is up.”<sup>2</sup>

This would not be as big of an issue if the Bowl Organizations, such as the Fiesta Bowl, did not use that money from the Universities to further private interests. Playoff PAC, a non-profit opposition group to the BCS composed of six lawyers and one accountant, filed a formal complaint with the IRS concerning the BCS tax exemption. The Fiesta Bowl was the most problematic of the four. The complaint focused on four areas of non-compliance with 501(c)(3) requirements.

The complaint alleged: (1) Excessive compensation for bowl executives. The Fiesta Bowl paid its Chief Executive around \$600,000 compared with the Rose Bowl only paying around \$270,000. The Fiesta Bowl Chief was among the top three percent of highest paid executives in a non-profit of similar size at the time. (2) Payment to registered lobbyists without disclosure also occurred within the Fiesta Bowl. Around \$1.5 million and undisclosed amounts were distributed to registered political lobbying firms in Arizona. (3) Intervention with political campaigns also allegedly occurred. The Fiesta Bowl Chief encouraged political donations with reimbursements in the form of undisclosed bonuses, the amounts of which are unknown. Finally, (4) frivolous benefits were given to Fiesta Bowl insiders in the form of interest-free loans, club memberships, golf outings, and even expensive strip club visits.<sup>3</sup> These allegations have been proven true since 2011 by various insiders of the Fiesta Bowl. The administration has been attempting to repair its

image and has been cooperative with the IRS recently. The question is whether this effort will be enough for the organization to keep its tax-exempt status. We will likely hear about the IRS's decision in the very near future.<sup>4</sup>

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## FOOTNOTES

<sup>1</sup>Ross Atkin, *Ten Interesting Facts about the Bowl Championship Series*, The Christian Science Monitor, January 10, 2011. <http://www.csmonitor.com/Books/2011/0110/10-interesting-facts-about-the-Bowl-Championship-Series>.

<sup>2</sup>Craig Harris, *Bowl Championship Series Bowl Trips Costly for Colleges*, The Arizona Republic, September 27, 2011. <http://www.azcentral.com/news/articles/20110926bcs-bowl-games-teams-lose-money.html>.

<sup>3</sup>Britton R. Wright, *College Football's BCS (Bowl Charity System?): An Analysis of the Characterization of BCS Bowls as Public Charities that Receive Tax-Exempt Status*, 19 Sports Law. J. 129 (2012).

<sup>4</sup>Craig Harris, *Ex-Fiesta Bowl Boss Owes IRS \$75,509*, The Arizona Republic, February 5, 2013. <http://www.usatoday.com/story/sports/ncaaf/bowls/2013/02/05/fiesta-bowl-ceo-irs-taxes/1893227/>.