

Thursday, October 22, 2020

President Katherine Rowe
Interim Athletic Director Jeremy Martin
Rector John Littel
The College of William and Mary
Williamsburg, Virginia

Dear Katherine, Jeremy, and John:

We are members of BackTrack, Inc. and submit this letter to identify serious concerns we have regarding the use and accounting of funds that are part of over 50 different endowments held by The College of William & Mary Foundation (the "Foundation").

Background

1. BackTrack members, other William and Mary alumni, and friends have developed 4 Women's Endowments and 49 Men's Endowments for track & field and cross country at the College of William and Mary (the "College"). All endowments developed by donors in conjunction with the College are held by the Foundation.
2. The endowments for these programs are restricted to the proscribed purposes in the endowment agreements and cannot be used for any other purposes.
3. As of first quarter of 2020, based on valuations provided by the College to BackTrack, the market value of the women's endowments was \$293,180 while the market value of the men's endowments was \$7,127,059.
4. Given market valuation and bylaws for endowments, the *yearly* draw from the women's program was in the range of \$11,000, whereas the draw of the men's program was in the range of \$277,000.
5. Giving to the women's endowment has been zero (0) since 2015. Giving to the men's endowment over the last 5 years has averaged \$174,894 per year for a total of \$874,472 over that period.
6. Investment returns for the endowment, as per the Audited Consolidated Financial Reports, has grown in the range of 5-6% over the last 5 years. In addition, the endowment for the men's program has grown through the gifts and market appreciation. The women's endowment has only grown due to market appreciation.
7. As a consequence of gifts and investment strategies for the endowment, over the period of 2017-2020 the men's draw on the endowment should have increased while the women's should have remained relatively flat.

Breakdowns: Traceability of Data and Lack of Notice

1. On or around the Spring of 2017, the Athletic Department changed the accounting for the women and men's track and field team creating a single set of accounts for operating the joint programs.

2. Rather than having separate and distinct budgets, the Athletic Department joined the budgets of the men and women's programs into a single unit leading to a lack of traceability of endowment fund distribution to their legally prescribed purposes under each endowment.
3. More importantly, as revenue of the endowments is restricted to either men's or women's activities, we are concerned that there has been and continues to be no certainty that the endowments' funds are being used for the required purposes and the restrictions associated with the endowments are being adhered to.
4. As a consequence, over 2017-2020 donors were not informed that the Foundation and, more importantly, the College and its auditors no longer had the processes, oversight of the processes, or traceability of the data to ensure that their gifts would be used for a proper purpose pursuant to the endowment agreements.
5. Neither the Athletic Department, Tribe Club, nor the Foundation ever informed donors of these process changes and the lack of traceability.
6. We only learned of these material developments over the course of the last 2 weeks.

Tribe Club Oversight

1. As per the new policy, draws requested to the Tribe Club by the Athletic Department lost distinction frustrating any ability to trace funds from a particular endowment's intended purpose and its end use.
2. Meaning, if the criteria associated with the endowment does not apply to the current circumstances of the College, those funds should not be allocated to the Men's or Women's Cross Country or Track and Field teams.
3. Moreover, the draw on expenses appear to have been performed at the end of the year post-activity being performed. This provides no certainty that the activity associated with the expense is allowed under the endowment; rather, this is more of an activity of tying sources of revenue to expenses in order to balance the books.

Breakdowns in Reporting to the NCAA & Other Inconsistent Reporting

1. The Athletics Department has submitted information to the NCAA membership Financial Reporting System (FRS) for men's and women's track and field for Athletics restricted endowment income that is inconsistent and misleading with financial information provided by the College; and it does not reconcile with other reports as provided by College as it relates to restricted funds and contributions for the Men and Women XC and TF.
2. The table in Appendix A consolidates the FRS data reported by the College for Fiscal years 2015-2019.
3. The data clearly shows a dramatic drop in Restricted Endowment Income for the Men while a dramatic increase for the Women. Given the market value of the Men's & Women's endowments and restrictions on the draw per the guidelines set by the William and Mary Foundation, it is not possible to reconcile the entries for Restricted Endowment Income found in FY 2018-2019.
4. Further, data from contributions from the Tribe Club is inconsistent with the reports that have been submitted by the College to the NCAA for many other sports.

Attestation of Data, Audits, & Use of Data

1. Katherine Rowe, members of the athletic department, and the Rector of the College attested to the accuracy of the reports published both to the Commonwealth of Virginia as well as to the NCAA in 2018-2019.
2. As president of the College, it is the responsibility of Katherine Rowe to ensure and attest that the restricted funds are accurately used, as per the terms of the endowments, by the Athletic Department once they have been distributed by the William and Mary Foundation.
3. Audits of the Athletic Department have not provided reasonable assurance that the schedules are materially correct. Allocation of endowments does not appear on a per sport basis in the audited schedules since all sports outside of Football and Men's and Women's Basketball are grouped as "Other Sports" in the Commonwealth of Virginia Auditor of Public Accounts.
4. Because "Other Sports" constitutes 17 separate teams, the financials for these endowments are obfuscated and thus the audit of them does not provide reasonable assurance as to the accuracy of the underlying reports and compliance with the terms of the endowment agreements.
5. BackTrack is concerned that various internal studies and external consulting reports leading to the recommendation to terminate the 7 sports, including Men's Track and Field, was based on incorrect and/or misleading data. We do not accept the argument that provision of misleading data and reporting would have had no change in outcome to the termination of the 7 sports.

Breakdowns Outside of Cross Country, Track & Field

1. Further to this, we learned from the Interim AD and Deputy AD that restricted funds associated with other Olympic sports have been flowing into the Women's Cross Country and Track & Field Teams, which again leads to the possibility of a systematic breakdown of the use of restricted funds in the Athletics Department.
2. Given the above points, BackTrack has concerns that the College does not have the appropriate policies, procedures, correct oversight, or the data to ensure that the College is correctly using restricted endowments, specifically those allocated to the Track and Field Teams.

Resolution

1. The only manner in which our concerns can be resolved is through an immediate review by an independent auditing group overseen by an independent faculty committee who will review procedures, policies, and specific distributions of restricted endowments over the last several years, to ensure that they have been consistent with the terms of the endowment agreements.
2. The Athletic Department must restore credibility. The College must institute appropriate procedures and controls to ensure accurate data quality, traceability of data, and modeling for any future business use.

We welcome a conversation with you regarding these serious concerns. BackTrack and its members reserve all rights and nothing in this letter should be construed to waive any of those rights.

On behalf of the Executive Committee,

Juan F. Conde
Vice President, BackTrack, Inc.

Glenn W. Crafford
Treasurer, BackTrack, Inc.

