

PCM Credit Card Usage Analysis

C Grundke
4/8/7

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Background

This report is in reference to 9 GRF credit cards that were issued to PCM Staff:

- 1. Milt Johns, General Manager**
 - 2. Janet Price, Finance/Admin**
 - 3. Jerry Storage, Maintenance/Security**
 - 4. Kurt Rahn, Recreation/Landscape**
 - 5. Debby Lamb, Recreation**
 - 6. Judie Zoerhof, Towers**
 - 7. Russ Ridgeway, Broadband**
 - 8. Richard Lee, MIS**
 - 9. James David, Purchasing**
- The historical data covers 26 accounting periods from 1/11/5 thru 2/11/7.**
 - The cost allocation to "Food," "Travel" & "Other" was done by me and could have a minor difference of interpretation however the "Total" is accurate.**

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Additional background

- **When reviewing this data, please read the comments by Martin L. Lee, Esq on the following 3 slides (slide # 4-6).**
- **Martin L. Lee, Esq is an attorney who is well known and has a vast experience with CC&R's and Home Owners Associations.**
- **Visit the following website for his partial resume:**
 - <http://www.rvoice.org/RVoice/Pages/Documents.htm>

Directors in homeowners associations often feel as if they have the power and authority to make general business decisions similar to officers in normal business corporations; and in many cases they do. Where directors in homeowners associations need to be careful (and where an important distinction exists relative to other corporations) is in adhering to the restraint on their powers which does not exist in normal corporations; to wit, in the declaration of CC&R's. Homeowners associations are like other corporations in that they have Bylaws and Articles of Incorporation. But only homeowners associations have declarations of CC&R's – other kinds of corporations do not. And so, where the officers of a normal business corporation may, **for example, decide to pay for a business Christmas party** or wash the windows of its employees' offices, **the directors of a homeowners association may not make such decisions unless the specific power to do so exists in the declaration of CC&R's.**

The law analogizes directors in homeowners associations as trustees whose exercise of power is limited by the declaration of CC&R's. A trustee is a fiduciary who may be individually and personally liable for any breaches of his or her fiduciary duty. The declaration of CC&R's is also thereby analogized to the trust declaration in a normal trust situation. And just as a trustee in a normal trust may not decide to do anything with the trust corpus unless the authority therefore is in the trust declaration, neither may the directors in a homeowners association decide to do anything with homeowner assessment monies (i.e., the "trust corpus") other than what is specifically provided for in the declaration of CC&R's (the "trust declaration").

A violation by the directors of limitations on their authority set forth expressly or implied in the declaration of CC&R's can result in those directors becoming personally and individually liable to association members for, inter alia, the breach of their fiduciary duty - this is analogous to the liability of a trustee. And so, **unless specific authority exists in the declaration of CC&R's, the directors in a homeowners association may not use common monies to pay, for example, for parties,** the repair and/or maintenance of anything which benefits individual association members, or to do anything which sounds nice, unless the CC&R's specifically permit same. The risk which a director runs in violating these restraints is one of individual and/or personal liability. **In any situation where doubt exists whether a specific expenditure is or is not permitted under the association's declaration of CC&R's, competent legal counsel should be consulted** and the advice of such counsel in this regard should be followed.

Dated Wednesday Sept 22, 2004

Objective of this presentation

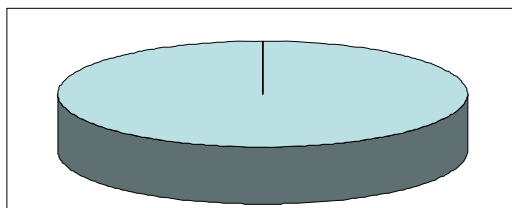
- Provide the reader with examples of how these cards were used.
- This report does not make any accusations but will try to ask, or answer, a few concerns that are evident from the billing statements for the cards.

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Total Money Spent



114,697
Total

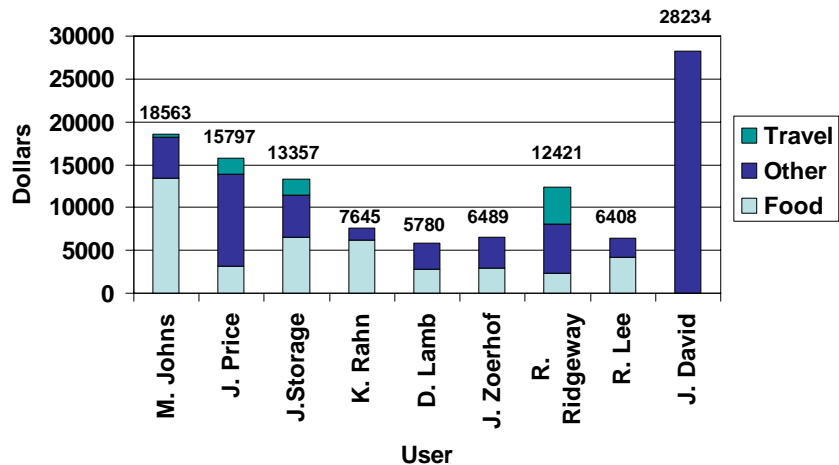
■ Total

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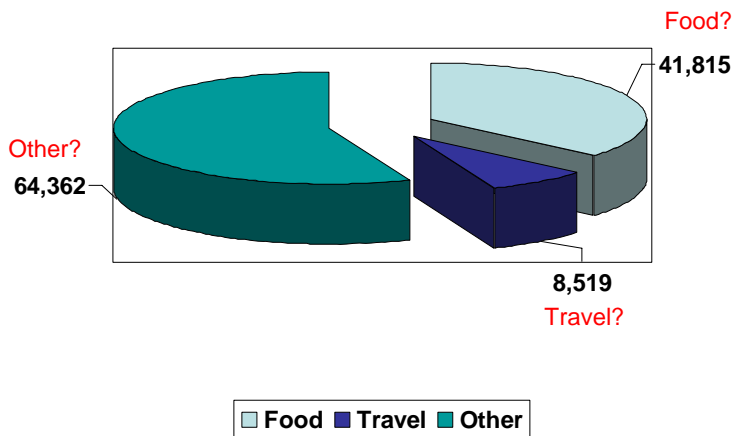
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Who Spent The Money?

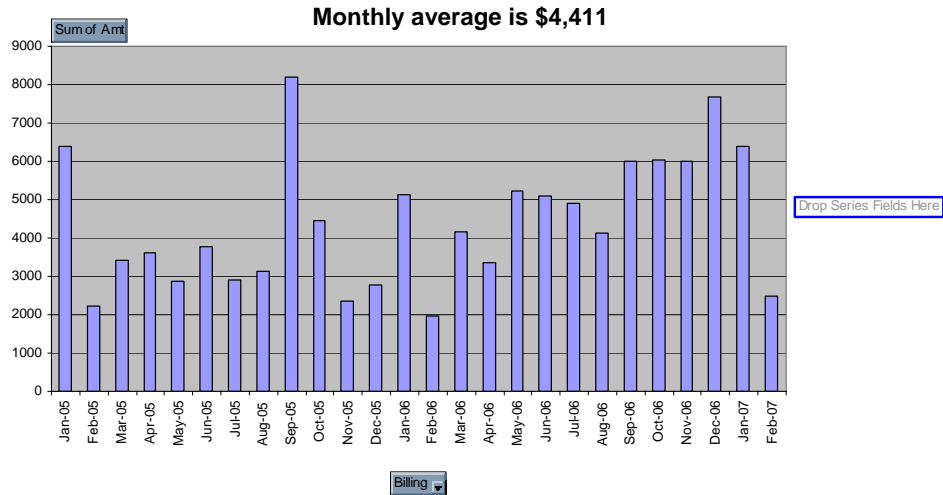


How Was the Money Spent?



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Total Monthly Billing for the 9 Cards



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Analysis of the Cards

- One of the cards is utilized by J. David, the manager of the Purchasing Department who potentially purchased “Other” items for all the corporations.
- The following charts reflect the usage by the 9 card holders when using it to purchase “Food” (including restaurant meals).

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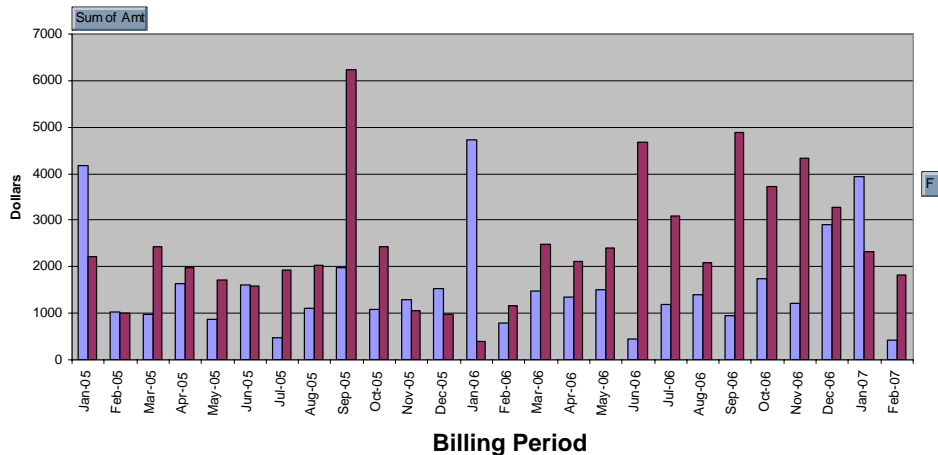
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Examples of “Food” Card Usage

- Cards were used for various purposes from:
 - Purchasing a \$3.05 coffee at Starbucks, to
 - Purchasing \$1,316 candy from Sees Candies, or
 - Purchasing a \$981 meal at Claim Jumper

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How the Money Was Spent (Food vs Other)



Monthly Avg for “Food” = \$1608 Monthly Avg for “Other” = \$2,475

When Was Card Used?

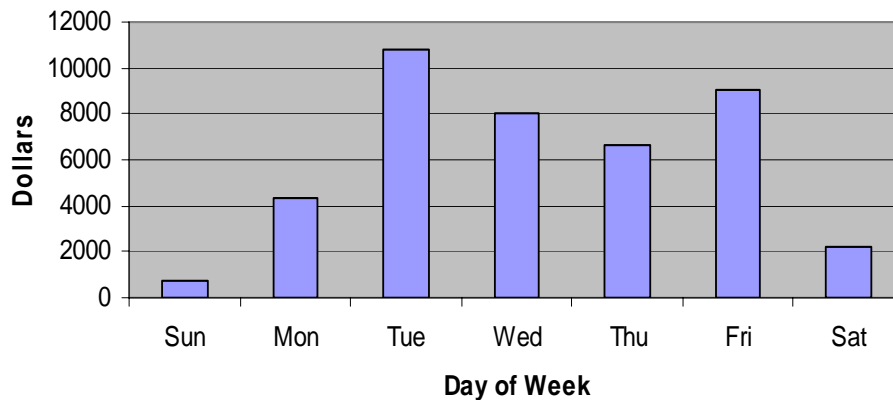
- The cards supposedly were issued for “emergency/disaster” business needs and yet food was purchased on all days of the week for “non-disaster/emergency” use.
- On Tuesdays luncheons were provided to the Boards of Directors at their monthly Board Meetings. You would expect Tuesday to be markedly different than other days, however, it is not as great as anticipated.

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Total Dollars for Food



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Additional Observations

- In addition to this presentation an associated file of the source data sorted by Usage (Food/Meals, Other & Travel) and \$Amt will add insight into the card usage as seen on the following slides.
- Visit the following website for the detail:
 - <http://www.rvoice.org/RVoice/Pages/Documents.htm>

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Sample of Food Data

- Description of Column Headings
 - “Name” = Last Name of Staff assigned the card
 - “Date” = Date card charged
 - “Desc” = Where the charge occurred
 - “Amt” = Amount charged the card
 - “Day” = day of week of charge
 - “Billing” = Statement month
 - “Usage” = (O = Other, F = Food/Meals, T = Travel)

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Sorted by \$ Amount

12 Uses out of 133 that were greater than \$100

Name	Date	Desc	Amt	Day	Billing	Usage
Price	12/01/06	Sees Candies	\$1,316.00	Fri	Dec-06	F
Storage	12/18/06	Claim Jumper	\$981.87	Mon	Jan-07	F
Lee	12/22/04	Lawry's Five Crowns	\$834.31	Wed	Jan-05	F
Storage	12/17/05	Dave & Busters	\$811.12	Sat	Jan-06	F
Johns	12/18/06	Las Brisas	\$713.77	Mon	Jan-07	F
Lee	12/15/05	McCormick & Schmick	\$588.71	Thu	Jan-06	F
Storage	08/25/05	Chart House	\$564.21	Thu	Sep-05	F
Rahn	12/14/04	Gullivers	\$543.72	Tue	Jan-05	F
Rahn	12/09/05	Yard House	\$514.17	Fri	Jan-06	F
Johns	12/15/04	The Loft	\$507.16	Wed	Jan-05	F
Lee	12/16/07	Houston's	\$476.79	Sun	Jan-07	F
Ridgeway	12/03/05	Doubletree Bellevue	\$458.80	Sat	Dec-05	F

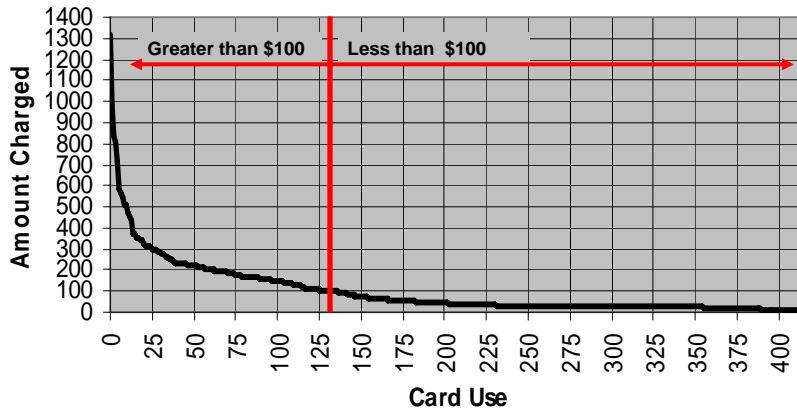
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Card Use vs Amt Charged

For 415 Card Uses



The vertical line represents 133 charges that exceeded \$100 on the left vs. 282 charges that were below \$100 on the right.

By reviewing the curve above you can see that 25 of 415 uses exceeded \$300, 50 exceeded \$200, 75 exceeded \$175, and 100 exceeded \$150

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Sorted by Total by Caterer/Rest

"Desc" (payee) "\$ Amt"

On The Border	\$3,018.38
Yard House	\$2,017.23
R&E Deli & Catering	\$1,926.75
Zcater	\$1,876.62
Claim Jumper	\$1,680.64
Sushi Wok Express	\$1,672.02
Sees Candies	\$1,316.00
Las Brisas	\$1,255.83
The Loft	\$1,170.47
Boston Market	\$1,106.16
BJS Rest & Brew	\$1,097.28
Dave & Busters	\$1,091.12
Tannins Wine Bar & Rest	\$1,036.37
Cedar Creek Inn	\$1,026.75

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Basis for following slide

- **Mr Johns Credit Card.**
- **Only charges on a Tuesday.**
- **Only Payees who might be caterers.**
- **Only amounts that would be for more than 10 meals.**
- **26 billing periods reviewed.**
- **29 events that could be meal for Directors.**
- **78 potential board mtgs at 3 per month.**

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Tues Potential Board Lunches

Caterer	Use	Amt	Amt/Use
Boston Market	5	881.79	176.35
NYC Café & Catering	2	383.9	191.95
R&E Deli & Catering	4	618.15	154.53
Sushi Wok Express	8	880.05	110.00
Taste Catering	1	230.47	230.47
Vons	2	244.95	122.47
Zcater	7	1426.5	203.78
Total	29	4665.8	160.89

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What Can A Resident Owner Do?

- **Have your Board of Directors get rulings by our corporate attorney (verified by a second independent opinion) on the following:**
 - **Can PCM legally use Credit Cards for the purchases Staff made?**
 - **Can Purchases for one Corporation be paid for by another Corporation? (ie; GRF buys lunch for United Board Members).**

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What Can A Resident Owner Do?

- GRF Credit Cards were used to purchase lunch for some of GRF, United & Third Board Meetings (approx 1/3 of total potential lunches). How were the other lunches paid for; (credit card, check, cash, etc.)?**
- Why weren't all lunches purchased with the GRF Credit Cards, or, the means used to purchase the other 2/3 of the lunches?**

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What Can A Resident Owner Do?

- Who authorized the Credit Cards given to PCM Staff?**
- Who authorized the charges that are made with the Credit Cards?**
- Can the Boards of Directors be held responsible for illegal use of these Credit Cards?**

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What Can A Resident Owner Do?

- Are these expenses included in yearly income tax statements for the employees?
- Where do these charges show up in the “Red Book” Financial Statements?
- Do United and Third have similar accounts for Staff “emergency” needs?

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What Can A Resident Owner Do?

- Insist that the Boards initiate a third party **“forensic audit”** to verify that we are not exposed to the potential legal consequences of these Credit Card charges and similar possible misappropriation of funds.

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Addendum (Comment)

On Apr 3 at the GRF Board Meeting a Director from United made the following comment (paraphrased):

“He was on a committee that reviewed the Maintenance Area. Credit Card usage was justified to purchase gasoline in an emergency, since that was the only way a supplier would accept payment.”

Problem

- **None of the 9 credit cards were used to purchase gasoline between Jan 2005 thru Feb 2007, a total of \$114,697 in charges.**
- **So we have one or more of the following:**
 - We never had a gasoline emergency.
 - He was mistaken.
 - PCM was mistaken.
 - Gasoline was purchased on an, as yet to be located, Credit Card, OR,
- **This is a “smoke screen” to justify Credit Cards!**

Summary

- **The Credit Card Usage appears to have evolved over time from a true business need to an unmonitored convenience for the PCM Staff.**
- **These charges must have oversight by the GRF Board since PCM is lax in following the intent of their fiduciary responsibility to the Resident Owners.**

Conclusion

- **Further detailed analysis of this data will more than likely add additional areas for concern.**
- **This would suggest a definite justification for immediate AUDITS, that must be initiated by the Boards.**

Reference

- This summary of the data and the accompanying source data can be found on the following web site: www.rvoice.org
- To locate the files from the home page just select the link titled: Credit Card History
- Then select the file you are interested in at the bottom of this page.

Reference

- **Rvoice.org contains the following files:**
 - This PowerPoint Presentation
 - PPS file of PowerPoint Presentation
 - PDF file of Presentation for printout (2 slides per page)
 - Source data sorted by:
 - Name (User)
 - Billing (Monthly Billing Period)
 - Amt (charge to card)
 - Date (Date of card use)
 - Name & Amt
 - Name & Desc for Other – w totals by Name
 - Desc (Payee) for Other – w totals by Payee

The End

For Questions?

Email to rvoice@rvoice.org

Or

BLOG at <http://blog.rvoice.org/>

Or

Tele at 949.683.6923