

Board Chair Cover Note

Audit & Investigation Reports issued by the Global Fund's Office of the Inspector General on 1 November 2011

Dear Reader,

Today, the Global Fund has released eight audit reports, three investigation reports and one review of Global Fund systems by its Office of the Inspector General. The Inspector General regularly conducts audits and investigations. **The audits are part of the Global Fund's** regular and routine efforts to ensure that grant money is used as efficiently as possible. The investigations have arisen out of suspected wrong-doing found during audits.

It is unusual to release so many reports at one time. Ordinarily, reports of the Office of the Inspector General are released to the Board as and when they are finalized. **On this occasion we agreed that these reports would be finalized after completion of the 'The Final Report of the High Level Independent Review Panel on Fiduciary Controls and Oversight Mechanisms of the Global Fund.'** This ensured that the Global Fund Board, Secretariat and Inspector General could focus fully on the report of the High Level Panel and its recommendations.

The reports are:

- Audit Reports: Dominican Republic, Sri Lanka, Nigeria, Swaziland; four reports relating to the work of Population Services International (South Sudan, Madagascar, Togo, and Headquarters)
- A Review of the Global Fund Travel and Travel-related Health and Security policies
- Investigation Reports: Mauritania, India, and Nigeria

The country-specific reports cover grants from different **Global Fund financing 'Rounds'**, and have implementation start dates commencing at various times since early 2004. Together, the reports review around US\$ 1 billion of grant financing. These reports take into account as far as **possible, a number of the High Level Panel's recommendations.** The Reports include comments from the Principal Recipients and contain a thorough management response and action plan from the Secretariat. Increased attention has been paid by the Office of the Inspector General to the tone of the Reports, without diluting the important message that each carries.

Specifically, the Reports tell us that the Global Fund must seek to recover up to US\$ 19.2 million from grants in eight countries. Around US\$ 17 million of this amount is for activities that are poorly accounted for, were not budgeted in the work plan, or fall within **the Global Fund's current definition of an ineligible expense,** which is an area that the High Level Panel report suggested be clarified for Principal Recipients. Some of the grant implementer responses contest relevant findings. From the perspective of the Office of the Inspector General, the reports present the evidence that has been found and recovery should be sought in full.

The Nigeria investigation report, which led from the audit, brings to the surface once again issues with the Local Fund Agent engagement model – raised very proactively also in the Inspector **General’s reports for Mali in December of last year.**

Whilst in no way seeking to reduce the importance of the concerns that come from the three investigation reports, they do come at a time when the Global Fund knows that it has to transform how it manages its grants – and how – most importantly – it proactively addresses risk in its portfolio. This cannot entirely prevent mismanagement in all grants, but it will certainly provide a better framework on which resources are channeled to partner countries.

At its November 2011 meeting, the Global Fund Board will consider a Consolidated **Transformation Plan to bring into effect the High Level Panel’s recommendations on risk,** grant management and improved fiduciary oversight.

More reports will come from the Inspector General and irregularities will continue to be found given the increasingly complex environments in which the Global Fund works. The Global Fund continues to strive to prevent loss, and we must ensure that the organization has the systems that enable us to take purposeful and immediate action when irregularities are discovered. Where there is dishonesty, we must pursue those involved.

The Global Fund is committed to the mission of saving lives and assisting countries in building strong and sustainable health systems. Emerging as an issue over the last years, but now very firmly confirmed from the Report of the High Level Panel, the Global Fund must be transformed at all levels.

The Consolidated Transformation Plan will provide the Secretariat, the Office of the Inspector General, and the Board with the means to make this transformation, and ensure ongoing service and accountability to the people whose lives we must save, and to those that fund that cause.

Best regards,

Simon Bland
Board Chair



THE OFFICE OF THE INSPECTOR GENERAL



The Global Fund to Fight AIDS, Tuberculosis and Malaria

**FINAL REPORT OF INVESTIGATION OF
INDIA HIV/AIDS (ROUNDS 4 AND 6) FUNDS TRANSFERRED
TO THE POSITIVE SUPPORT FOUNDATION (PSF)**

Investigations Report No.: GF-OIG-11-010

Issue Date: 31 October 2011

TABLE OF CONTENTS

I.	Executive Summary	4
II.	Background.....	7
	A. Sub-Grants Reviewed	7
	1. HIV Round 4	7
	2. HIV Round 6	8
	3. Summary of Planned Expenditures.....	8
	B. OIG Investigative Unit	9
	C. Origins of Investigation	10
III.	Methodology.....	11
	A. Scope of Investigation	11
	B. Investigative Process.....	11
	1. In-Country Mission.....	11
	2. Document Analysis.....	11
	3. Interviews.....	12
	C. Relevant Definitions of Fraud and Abuse	12
	D. Due Process	13
	E. Exchange Rate	13
IV.	Investigative Findings.....	14
	A. Overview.....	14
	B. INP+ Transfer of Grant Funds to PSF Was Contrary to the Grant and Sub-Agreements 16	
	1. Under Mr. Abraham’s Direction, INP+ Created and Funded PSF.....	16
	2. The Grant and Sub-Grant Agreements Requirements that Funds be used only for Program Purposes.....	20
	3. Violations of Grant and Sub-Grant Agreements	20
	4. Loss to the Global Fund.....	21
	5. INP+ Deprived the Sub-SRs of Funding	24
	C. INP+ Concealed Transfers to PSF	26
	1. Failure to Report Transfers and Underreporting in INP+ Annual Reports.....	26
	2. Disguised Transfers through Third Parties.....	30
	D. Fraud and Abuse by PSF	33
	1. Mr. Abraham Intentionally Placed Himself in a Position Where He Suffered From a Conflict of Interest.....	33
	2. Mr. Abraham’s Control of PSF.....	34

3.	PSF’s Stated Programmatic Goals	35
4.	Expense Payments that benefited MR. Abraham and His Associates	36
5.	Purchase of Land Without Approval From the PSF Board	41
6.	PSF Paid for Driving Lessons and Other Expenses for Non-Employees	46
E.	Retaliation Against Critics and Whistleblowers	46
F.	Conflict of Interest.....	48
V.	OIG’s Evaluation of the Subject’s Response.....	50
A.	Summary of the Response.....	50
B.	OIG’s Evaluation	51
C.	The Credibility of Mr. Abraham’s Assertions	53
VI.	Fiduciary Control Weaknesses	54
A.	Co-Mingled and Multiple Accounts	54
B.	Overheads	54
VII.	Loss to the Global Fund	55
A.	The Global Fund’s Right to Reimbursements.....	55
B.	Loss Calculation	57
C.	Reimbursement to Date and OIG Disclosures to the Secretariat	58
VIII.	Conclusion	59
A.	Mr. Abraham	59
B.	INP+	60
C.	PFI - The Principal Recipient	61
IX.	Recommendations.....	61
	Annex 1: PFI - Principal Recipient’s Comments and the OIG’s Reply	64
	Annex 2: Mr. Abraham’s Comments	68
	Annex 3: CCM India’s Comments	87
	Annex 4: The Secretariat’s Action Plan	91

I. EXECUTIVE SUMMARY

1. This report presents the results of an investigation by the Investigations Unit of the Office of the Inspector General (OIG) of the grants disbursed to the Indian Network for People Living with HIV/AIDS (INP+), a sub-recipient (SR) of the Global Fund's Round 4 and Round 6 disbursements. The OIG was first notified of allegations of financial mismanagement within INP+ in March 2010. In the months that followed, the OIG - at the Global Fund Secretariat's and Country Coordinating Mechanism's (CCM's) request - deferred its own investigation, pending an independent fiduciary review of INP+ by an audit firm selected by the CCM. This fiduciary review confirmed that INP+ violated the relevant grant and sub-grant agreements by transferring grant funds to a closely affiliated organization, Positive Support Fund (PSF), which failed to use these monies for program related purposes. However, lacking a forensics component, the review was not able to determine: 1) the full amount of loss to the Global Fund; 2) all of the parties responsible for the loss; 3) a full account of their acts and uses of funds; 4) the location of the misappropriated and remaining funds. The review did not place the Organization in the best possible position to seek and affect recoveries.

2. In February 2011, OIG launched its own investigation of INP+'s transfers to PSF in order to identify: (a) the amount of the Global Fund funds transferred from INP+ (the SR) to PSF in violation of the grant and sub-grant agreements; (b) the location of misappropriated funds so that recoveries could be achieved; (c) the full nature and extent of the fraud, abuse and/or mismanagement of Global Fund funds; and (d) the identification of all persons responsible for the aforesaid acts. On the basis of this investigation, the OIG has found credible and substantive evidence that, at least, US\$ 872,000 of grant funds were misappropriated and should be returned to the Global Fund, and as much as the entire amount transferred to PSF, US\$ 1.28 million. Further, on the basis of the totality of evidence identified during its investigation, OIG confirmed the independent audit's finding that PSF failed to provide grant-related services as required under the terms and conditions of the grant. The investigation has also revealed that grant funds were transferred to a shell corporation, controlled by a principal of the sub-recipient, Mr. KK Abraham, and that some of the funds were thereafter used for purposes personal to him.

3. As set forth herein, the investigation concludes that substantive and credible evidence has been identified that Mr. KK Abraham purposefully took advantage of his position, first as President and then as General Secretary of INP+, to effectuate individual control over approximately US\$ 1.28 million in grant funds, through engineering transfers of such grant resources and donor funds to PSF, an organization which he controlled as its President and a lifelong Board Member, and for which he was the primary signatory on the entities bank accounts. He then used the funds unilaterally in the manner he deemed appropriate, which on a number of occasions benefited himself, and his associates, personally. The transfer of project funds from INP+ to PSF violated the terms of the Global Fund's Grant Agreement with PFI, and INP+'s Sub-Grant agreement with PSF, since these funds were not used for program purposes as required under those Agreements and, in part, for the benefit of Mr. Abraham. As these funds were not used for program purposes, but rather for, among other things, Mr. Abraham's personal benefit, his personal projects,

and for his associates, transfers of project monies by INP+ to PSF constituted a misappropriation of grant funds.

4. The OIG found various other forms of fraud, abuse, and mismanagement within INP+ and PSF: First, the leadership of INP+ concealed and misrepresented its contributions to PSF. Direct contributions to PSF were either underreported or not reported at all in INP+'s annual reports. INP+ failed to report transfers to PSF in its annual reports until December 2009—more than three years after the first transfer to PSF was executed, and only two months *after* complaints surfaced regarding transfers to PSF. Moreover, even when INP+ reported transfers, it underreported the amount of these transfers by approximately US \$750,300.

5. Further, INP+ provided auditors with incomplete financial information. In addition, the leadership of INP+ executed a scheme to route funds to PSF via fictitious “donations” from its officers and other private individuals.

6. Second, the OIG found credible and substantive evidence that PSF paid for utilities, rent and other costs related to an apartment owned and occupied by the general secretary of INP+ and president of PSF, KK Abraham, and his associate and PSF consultant, MK Shah. Third, the investigation found that compensation paid to certain staff members (whom the independent audit had identified as unqualified and overcompensated) was underreported to the Global Fund. Fourth, the OIG found that PSF provided few services since its inception, failing to meet any of the 9 objectives set forth in its Memorandum of Association. Fifth, there were significant overlaps between the leadership of INP and that of PSF—most prominently, that Mr. Abraham served as President or General Secretary of INP+ as well as President of PSF during the relevant periods. Significantly, Mr. Abraham was the sole individual with primary authority in both entities to make most, if not all, management decisions, and was a signatory to bank accounts for both entities. The investigation has identified credible evidence that Mr. Abraham was a driving force behind creating PSF, served as its most senior officer, and made the significant substantive decisions in both entities, including how funds were to be expended. These facts and circumstances created a conflict of interest, and were in breach of the terms of the grant agreement.

7. Sixth, the investigation has identified that grant funds were utilized to purchase a parcel of land without consent of the Board, knowledge and consent by the Principal Recipient and disclosure to the Global Fund, and this transaction was effectuated by Mr. Abraham, and at his direction. On 15 November 2008, Mr. Abraham, the president of PSF purchased a plot of land situated at Vele, Tai Wai, Dist. Satara purportedly in his capacity as head of PSF, without approval from the PSF's Board. Between November 2008 and March 2009, at Mr. Abraham's direction and under his authority, PSF made payments of US\$ 72,888¹ relating to the purchase of this land. Mr. Abraham has represented to the OIG that he intended to build a hospital on the land. However, to date no construction of the hospital has been carried out. Based on a document recovered from Mr. Abraham, it is well established that Global Fund grant funds were used to pay for the land.

¹ INR 3.28 million

8. The investigation has also revealed that Mr. Abraham used PSF funds to pay for the rent and renovation of his personal residence, including carpentry work, painting and polishing furniture, as well as furnishings, such as a glass mirror for the bathroom, wash basin, mattresses, meeting table and chairs, sofa, safety entrance door, collapsible gate for balcony, and a supply of gas geysers.

9. The OIG also found evidence that INP+ retaliated against whistleblowers and other critics of PSF by disaffiliating two SLNs and removing a board member from office without merit after they raised concerns about the function and funding of PSF.

10. Finally, the OIG found that the Principal Recipient, Population Foundation of India (PFI), failed to fulfill its oversight responsibilities of the sub-recipient, INP+, and did not act with energy and enthusiasm to make appropriate changes and obtain recoveries of lost sums, when the malfeasance was identified. Indeed, despite multiple requests, PFI did not effectuate proper change in INP+ management, did not exercise proper control and fiduciary oversight of this SR, and failed to require misappropriated grant funds to be returned once the misappropriation was identified and the location of some of the diverted funds were identified by the OIG.

11. On the basis of the totality of evidence, the OIG concludes that there is credible and substantive evidence of (a) an improper transfer of Global Fund funds constituting a violation of the grant agreement; and (b) a scheme existed, that was orchestrated by and at the direction of Mr. Abraham, who used his position at INP+ to convert Global Fund grant monies for his personal gain through improper and unauthorized transfers to PSF and subsequent use of such funds for his own purposes. In light of these findings, the OIG recommends that: (1) the Global Fund's Secretariat immediately seek to recover all outstanding losses, at least US\$ 872,000, the losses that the Global Fund and the grant programs suffered as a result of INP+'s transfer of funds to PSF and subsequent misuse; (2) Global Fund grant funds that continue to sit in accounts that are owned and/or controlled by PSF's leadership are immediately returned to the Organization; (3) PSF immediately liquidate the properties that it has purchased with Global Fund grant funds, or execute a proper property transfer from Mr. Abraham to INP+, so that the sub-recipient retains true ownership of the property; (4) the Global Fund require PFI (the PR) to condition any future cooperation with INP+ on a clear demonstration that it has: (i) reimbursed the Global Fund for the losses to Global Fund grant funds; (ii) separate Mr. Abraham from his position and barred him from any activity related to GF grants; (iii) held accountable any other individuals who may be found to be responsible for the fraud and abuse described in this report; and (iv) implemented robust internal controls to prevent future fraud and abuse; (5) prevent and bar co-mingling of funds from multiple donors by ensuring that future grant agreements require all PRs and SRs to deposit grant proceeds in dedicated Global Fund accounts; and (6) require that LFAs, CCMs and other fiduciary control bodies verify the use of overheads charged to Global Fund grants, and conduct more effective oversight during the course of the grants.

II. BACKGROUND

A. SUB-GRANTS REVIEWED

11. OIG's investigation focused on a discrete portion of two Global Fund HIV/AIDS grants to India in Round 4 and Round 6.² Under these two rounds, a total of US\$ 48.5 million was awarded to the Population Foundation of India (PFI) as the Principal Recipient (PR) in order to fund the Access to Care and Treatment (ACT) and Promoting Access to Care and Treatment (PACT) programs. The Indian Network for People Living with HIV/AIDS (INP+) was a Sub-Recipient (SR) under both grants, receiving a total of US\$ 10.88 million.³ This investigation focused on the portions of these grants for which INP+ served as an SR and, more specifically, the funds that INP+ transferred to its affiliate, Positive Support Fund (PSF), an entity created by an INP+ Board member, to receive these funds. The following two sub-sections provide general background on the grants, including the objectives, planned activities and projected expenditures for the INP+ portion of each grant.

1. HIV Round 4

12. The Global Fund's first grant to PFI was HIV/AIDS Round 4, which started on 01 April 2005.⁴ The grant supported Access to Care and Treatment (ACT) programs, aimed at supporting a partnership between the public and private sectors on HIV and AIDS prevention, treatment, care and support in high prevalence states. The planned activities under the grant were:

- a. Training of counselors, social workers, health care providers and field staff;
- b. Selection and training of peer counselors;
- c. Advocacy with the corporate sector to get health facilities to provide quality antiretroviral therapy services; and
- d. Selection and capacity building of 100 NGOs and community based organizations to provide home and community based care.

13. On 11 May 2005, PFI entered into a Phase 1 sub-grant agreement with INP+ for a total of US\$ 1,671,089 to provide care and support to PLHAs through Treatment Counseling Centres (TCCs), Positive Living Centres (PLCs) and District Level Networks (DLNs).⁵ Under the agreement, INP+ was to establish 20 TCCs, 5 PLCs, and 102 DLNs, as well as train 3,238 peer educators.

14. On 12 June 2007, PFI entered into a Phase 2 sub-grant agreement with INP+ totaling US\$ 7,157,289, to reduce morbidity and mortality associated with HIV/AIDS and the transmission of HIV in six high prevalence states by combining care, treatment,

² Global Fund Grants IDA-405-G05-H (ACT) and IDA-607-G10-H (PACT). On 1/4/2010 both grants were combined into IDA-405-G05-H.

³ Forensic audit report prepared on behalf of the OIG, June 2011.

⁴ Global Fund Grant IDA-405-G05-H.

⁵ PFI Reference # 357928.

prevention and support.⁶ Under the agreement, INP+ was to: establish 28 new DLNs by 2007 and strengthen 102 DLNs by 2009; strengthen the existing 25 TCCs and to establish another 25 TCCs by end of 2008; establish 11 new PLCs by 2008; enroll 14,234 peer educators by the end of the 2009 calendar year and provide training of peer educators to conduct treatment follow-up, group meetings and maintenance of records; strengthen and coordinate programs at the state level by supporting the SLNs in the six high prevalence states and to manage the care and support program at Central Level Secretariat of INP+, encompassing the coverage of six states.

2. HIV Round 6

15. The Global Fund's second grant to PFI was HIV/AIDS Round 6, with a start date of 1 June 2007.⁷ The grant supported the Promotion of Access to Care and Treatment (PACT) programs. Planned activities were:

- a. Creating and strengthening networks of PLHAs; and
- b. Mapping and strengthening private, NGO and faith-based health care institutions so that institution based care can be provided for people living with HIV along with other reproductive health services.

16. On 25 June 2007, PFI entered into a Phase 1 sub-grant agreement with INP+ totaling US\$ 1,800,018 to establish 35 new DLNs by 2007 and strengthen 70 DLNs by 2008.⁸ On 28 October 2009, PFI and INP+ signed a Phase 2 agreement that extended the implementation period until 31 May 2012 and allocated a further US\$ 5,162,943 in funding.⁹

17. This grant was consolidated with the round 4 grant on 1 April 2010.¹⁰

3. Summary of Planned Expenditures

18. INP+'s planned activities for Rounds 4 and 6 translated into expenditures on: (i) Project Monitoring by INP+, (ii) State Level Networks (SLNs), (iii) District Level Networks (DLNs), (iv) Treatment Counseling Centres (TCCs), and (v) Positive Living Centres, as summarized in the following table.

⁶ PFI reference # C931866.

⁷ The Global Fund Grant IDA-607-G10-H.

⁸ PFI reference # C 946946.

⁹ PFI reference # H 735025.

¹⁰ Advice from Global Fund FPM in email dated 11 October 2010.

Summary of planned INP+ expenditures by category (in US\$):

Grant (Phase)	Term	Project Monitoring	SLNs	DLNs	TCCs	PLCs	Total
Rd 4 (1)	April 05 - March 07	117,344		1,025,743	234,252	293,750	1,671,089
Rd 4 (2)	April 07- March 10	876,635		4,070,004	1,013,272	1,197,377	7,157,289
Rd 6 (1)	June 07- May 09	182,591	332,577	1,284,850			1,800,018
Rd 6 (2)	Jun 09- May 12	491,022	360,756	4,311,165			5,162,943
Total		1,569,057	530,289	10,359,262	1,247,524	1,491,127	15,791,339

B. OIG INVESTIGATIVE UNIT

19. The Office of the Inspector General (OIG) Investigative Unit is responsible for conducting investigations of fraud, abuse, misappropriation, corruption and mismanagement (collectively, “fraud and abuse”) that may occur within the Global Fund and by Principal Recipients (PRs), Sub-Recipients, (collectively, “grant implementers”) Country Coordinating Mechanisms (CCMs), Local Fund Agents (LFAs), as well as third party vendors.¹¹

20. OIG is an administrative body with no law enforcement rights. OIG does not have subpoena power, and cannot conduct searches or compel the production of financial records or other records in the possession of parties that are not in privity of contract with the Global Fund or its recipients. As a result, its ability to obtain information is limited to the rights the Global Fund reserves vis-à-vis the entities under investigation, its Charter and Terms of Reference, and on the willingness of witnesses and other interested people to voluntarily provide the investigation with information. The OIG can, however, coordinate its efforts with law enforcement to obtain evidence and evidence collected by the OIG can be used by law enforcement to enforce violations of domestic law.

21. OIG establishes findings of fact upon uncovering “credible and substantive evidence” of that fact. This is a standard that is akin to the normally employed “more likely than not” (greater than 50 percent likelihood) administrative standard used by the community of International Financial Institutions (IFIs).¹²

22. OIG investigations aim to: (i) uncover the specific and full nature and extent of fraud and abuse of Global Fund funds, (ii) identify individuals and/or entities involved in the schemes, (iii) determine the amount of funds misappropriated; and (iv) identify the location of misappropriated assets so that the Organization can be well placed to

¹¹ *The Global Fund Charter and Terms of Reference for the Office of the Inspector General*, available at <http://www.theglobalfund.org/documents/oig/TheCharter.pdf>.

¹² This standard is adopted by all International Financial Institutions (IFIs) for purposes of sanctioning vendors found to have engaged in fraud, corruption, collusion, and coercion in IFI-financed contracts.

effectuate recoveries, either itself or through claims in the relevant jurisdictions. In addition, OIG makes recommendations to the Global Fund for recovery of losses, charges of misconduct of Global Fund staff, and sanctions of vendors, as appropriate. It also provides the Global Fund Board and the Global Fund Secretariat with an analysis of lessons learned for the purpose of preventing future harm to grants due to fraud and abuse. Finally, OIG makes referrals to national authorities for prosecution of any crimes or other violations of national laws, and supports such authorities as necessary throughout the process.

C. ORIGINS OF INVESTIGATION

23. Allegations of financial impropriety at INP+ first surfaced in March 2010, when the Secretariat informed the OIG that it had been contacted by a whistle-blower, and the OIG received a confidential communication on the OIG whistle-blower hotline.¹³ The communication alleged financial mismanagement by senior officials--specifically, that INP+ transferred US\$ 1,069,000 to PSF,¹⁴ and that US\$ 184,878,¹⁵ was transferred from PSF to the HIV and Human Development Resources Network (HDRN), an organization funded by UNDP to provide HIV/AIDS support. The CCM Working Group and the Global Fund Regional Team requested that the OIG defer conducting its own investigation until an audit firm selected by the CCM had completed its review. In May 2010, the OIG learned that the audit to be performed by the PR audit firm would not include a forensics component.¹⁶ The OIG expressed its reservations that any audit without a forensic component would be insufficient to identify the full extent and nature of fraudulent activities, the individuals responsible, and the full amounts misappropriated, and that such an effort therefore should not be paid for out of grant funds. Nevertheless, the audit proceeded without a forensics component, and US\$ 50,000 of grant funds was paid to an external firm to complete the work.

24. In October 2010, the auditor submitted its final report to the CCM and the Global Fund. The auditor's report found evidence of transfers from various INP+ bank accounts to PSF, a closely-related entity, "in the range of" US\$ 1.09 million. The report stated that these transfers from INP+ to PSF were not program-related and thus in violation of the grant agreement between PFI and INP+. However, according to the report, the exact amount of Global Fund grant funds transferred from INP+ to PSF could not be calculated without a detailed analysis of bank transactions, which was outside of the auditor's mandate.¹⁷ Despite the audits findings, neither the PR, nor the CCM, required the funds to be repatriated by PSF, and the individual responsible for the transfers remained in senior positions in both organizations, the SR (INP+) and PSF.

¹³ Email from Global Fund staff member to OIG (11 March 2010) (detailing complaints received from the whistleblower regarding PSF and the disaffiliation of SLN's UPNP+ and NMP+); Whistleblower email to OIG (22nd April 2010).

¹⁴ INR 47,559,777

¹⁵ INR 8,225,069

¹⁶ PR audit report, November 2010, section 3.2.21 states: "a detailed analysis will have to cover program funds received by INP+ from other donors, an activity outside of the mandate of the current engagement".

¹⁷ PR audit report, November 2010, section 3.2.21, p.50

25. Given the shortcomings in the audit and lingering questions about fraud, abuse and mismanagement within INP+ and PSF, in February 2011, the OIG launched its own investigation. The investigation focused upon the transfers from INP+ to PSF, and the OIG made the investigation a priority in the office so as to disrupt grant management to the least extent possible.

III. METHODOLOGY

A. SCOPE OF INVESTIGATION

26. In February 2011, the OIG launched its own investigation, in order to identify: (a) the amount of Global Fund funds transferred from INP+ (the SR) to PSF in violation of the grant and sub-grant agreements; (b) the location of misappropriated funds in order to put the Global Fund in the best possible position to recover these funds; (c) the full nature and extent of fraud, abuse or mismanagement of the Global Fund funds; and (d) the persons responsible for the aforesaid acts. Within three months of beginning its investigation, the OIG had concluded a substantial portion and travelled back to Delhi to report on it to the CCM. During the course of the investigation, additional allegations surfaced, including allegations by additional whistle-blowers, leading to an extension of the investigative timeline as a result of the need to thoroughly examine the additional allegations and information; complete due process obligations and ensure comprehensiveness of the effort.

B. INVESTIGATIVE PROCESS

27. The OIG's investigation consisted of an in-country investigation mission; obtaining, organizing and conducting a forensic accounting analysis of thousands of pages of program documentation; and interviewing key individuals.

1. In-Country Mission

28. An investigative team travelled to India in February 2011 to the offices of INP+ in Chennai and PSF in Pune. A senior OIG investigator coordinated all investigation activities; conducted interviews; and scanned, reviewed and analyzed all relevant documentation. An OIG computer forensic specialist obtained all available and relevant electronic data. The OIG engaged the services of an independent forensic accountant to accompany the OIG on site visits, and later to examine and analyze all relevant financial documentation.

2. Document Analysis

29. The OIG conducted an in-depth analysis of the documents collected. The key documents reviewed were:

- a. PR audit report entitled "Fiduciary Review and Institutional Assessment of INP+";
- b. Select internal audit reports PSF & INP+;
- c. Select audited financial statements of INP+ and PSF;
- d. Agreement between INP+ and PFI;
- e. Agreement between INP+ and PSF;

- f. Accounting data (Tally) dump shared by the forensic expert of OIG;
- g. Select accounting vouchers and vendor invoices of PSF; and
- h. Eight bank accounts belonging to INP+ and one bank account of PSF.

30. The OIG conducted a forensics accounting review of the bank accounts of INP+ and PSF starting from the time of PSF's creation in 2006. The review consisted of among other things:

- a. Analyzing INP+ and PSF bank accounts to identify the amount in grant funds transferred from PFI to INP+;
- b. Identifying the amount of grant funds transferred to other general bank accounts of INP+;
- c. Verifying the amounts transferred to PSF from these accounts, and determining whether that amount corresponded to the amount of grant funds received from PFI;
- d. Analyzing PSF's accounting vouchers and vendor invoices;
- e. Identifying the amount of cash being deposited and withdrawn from the PSF bank account in order to determine whether irregularities existed;
- f. Identifying money transferred out of INP+ accounts and money received in PSF accounts in order to determine any relationship/similarities/identical transactions between INP+ and PSF; and
- g. Reviewing select accounting records of PSF to evaluate what, if any expenses were being paid for with grant funds received from INP+.

3. Interviews

31. The OIG conducted several interviews with Mr. Abraham, President of PSF, current General Secretary and former President of INP+; Ms. Jahnabhi Goswami, Treasurer of PSF, current President and former General Secretary of INP+; and Mr. G Dwaraknathan, INP+ Account Manager. These interviews took place in Pune and Chennai on 21 February 2011 and 25 February 2011. OIG traveled back to India in April 2011.

32. The OIG also interviewed two confidential witnesses. The confidential witnesses were interviewed in a neutral location to safeguard anonymity. The information supplied by the confidential witnesses is only included in this report when it has been corroborated by other reliable evidence, and thereby found to be credible.

C. RELEVANT DEFINITIONS OF FRAUD AND ABUSE

33. Drawing on the Global Fund's own policies and international standards, this report uses the following terms within this report in reference to findings of fraud and abuse:

- a. "Misappropriation" is defined as:
the knowing use of the property or funds of another person for one's own use or other unauthorized purpose, or by any person with a responsibility to care for and protect another's assets (a fiduciary duty).

b. “Fraudulent practice” is defined as:

*any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a person or entity to obtain a financial or other benefit or to avoid an obligation;*¹⁸

D. DUE PROCESS

34. OIG provided the Global Fund Secretariat, the CCM, and the subjects of the investigation, opportunities to review and comment on the investigation’s findings prior to the publication of the report. In this regard, a copy of this draft report was provided to the subjects, including Mr. KK Abraham, on 6 September 2011, who was given three full weeks to review the report and comment upon it. Mr. Abraham responded in writing, twice. His comments have been considered, and are appended hereto as Annex 2. Further, the OIG Director of Investigations traveled to Mumbai (in addition to other GF business) to meet with Mr. Abraham in August 2011 and discussed the issues set forth in this report with him fully. The interview was tape recorded, pursuant to OIG policy and procedure. All of the comments made at the meeting, and in response to this report, were considered prior to the finalization of the report.

35. Similarly, the Principal Recipient and the Country Coordinating Mechanisms were provided with copies of the draft report and given the opportunity to comment. Both were given extensions of time within which to submit their comments. The extensions delayed the release of the report. The Principal Recipient’s comments are reflected in a Table, appended to the report as an Annex (Annex 1), along with the OIG’s reply to the comments. In several instances, the Principal Recipient’s proposed factual modifications that were accepted. Others were not, and the basis for the OIG’s determination is set forth in the Table itself. Likewise, the CCM comments are appended hereto, as Annex 3.

36. Lastly, the Secretariat was asked to provide an action plan on how it intended to address the findings of the Report. The Secretariat was given multiple extensions of time to submit the plan, which has extended the release date of the report. The Secretariat’s Action Plan is appended as Annex 4. It should also be noted that the Secretariat was provided with preliminary findings in March, 2011, including the estimated loss amount and the identification of the bank accounts where such funds were being held. Despite requests by the OIG, the Secretariat did not require the full amounts to be returned from PSF controlled accounts to the SR, the PR or the Global Fund.

E. EXCHANGE RATE

37. This report describes amounts in United States Dollars (US\$), with the corresponding amount in Indian National Rupee (INR) being noted where appropriate, for ease of reading. For the purposes of this report, the exchange rate from INR to US\$ has been set as the average of the daily exchange rate from the period of 1 April 2005 to 31 March 2010: INR 45 to US\$ 1. This value is an average of the published daily exchange rate

¹⁸ The international Financial Institutions Task Force. See <http://www.adb.org/Documents/Reports/IFI-TaskForce-on-Anticorruption/IFI-TaskForce-on-Anticorruption.pdf>.

for the years of 2005 to 2010, and was obtained by compiling a data set of the daily exchange rates for the period in question and calculating the average of those values.¹⁹

IV. INVESTIGATIVE FINDINGS

A. OVERVIEW

38. As set forth herein, the investigation found that Mr. Abraham as President and then as General Secretary of INP+, effectuated transfers of Global Fund grant funds to PSF, an organization which he controlled as its President and a lifelong Board Member, and for which he was the primary signatory on bank accounts. The transfer of project funds from INP+ to PSF were contrary to the terms of the Global Fund's Grant Agreement with PFI and the latter's Sub-Grant agreement with INP+ since these funds were not used for program purposes, as required under those Agreements. In turn, some of these funds were used for Mr. Abraham's personal expenses and those of his associates.

39. From the start, the transfers of grant funds from INP+ to PSF lacked any authorization from PFI. Moreover, the transfers lacked a contractual basis for the majority of the period over which they were transacted: At the time of the first transfer, in June 2006, a Memorandum of Understanding (MoU) did not exist between INP+ and PSF (it was signed in December 2006).²⁰ Upon the expiration of the 2006 MOU, no MoU was present between INP+ and PSF between December 2007 and May 2010, a period during which transfers continued to PSF.²¹

40. INP+ failed to report transfers to PSF in its annual reports until December 2009—more than three years after the first transfer to PSF was executed, and only two months *after* complaints surfaced regarding transfers to PSF. Moreover, even when INP+ reported transfers, it underreported the amount of these transfers by approximately US \$750,300.

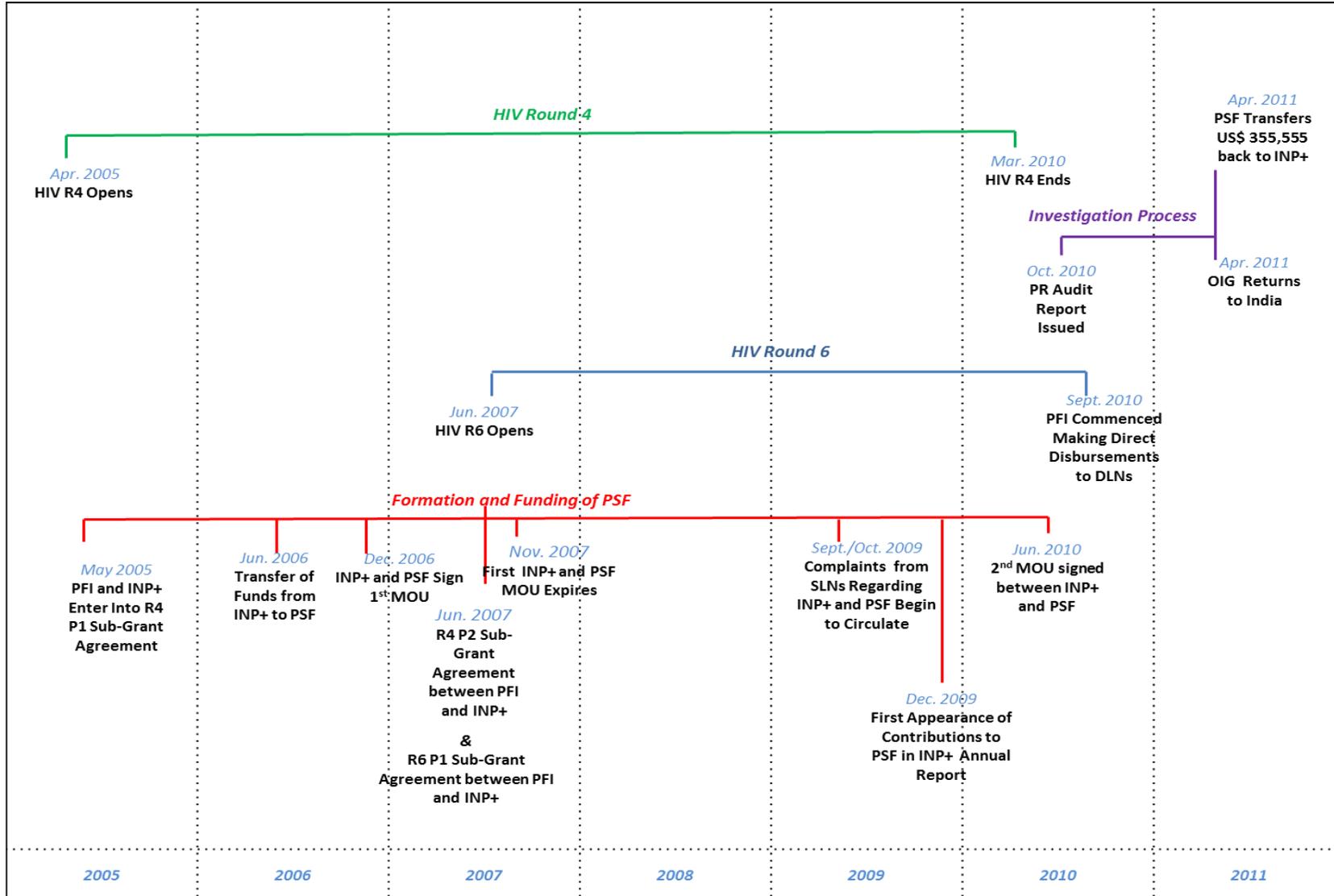
41. The timeline set forth below provides an overview of the formation and funding of PSF between 2005 and 2011.

¹⁹Based on historical exchange rates, "<http://www.oanda.com/currency/historical-rates>".

²⁰ This point is highlighted in the OIG forensic audit firm "The Global Fund Mission to India—Forensic Accounting Report" (24 June 2011).

²¹ Ibid.

Timeline of HIV Rounds 4 and 6 and the Formation and Funding of PSF (2005-2011)

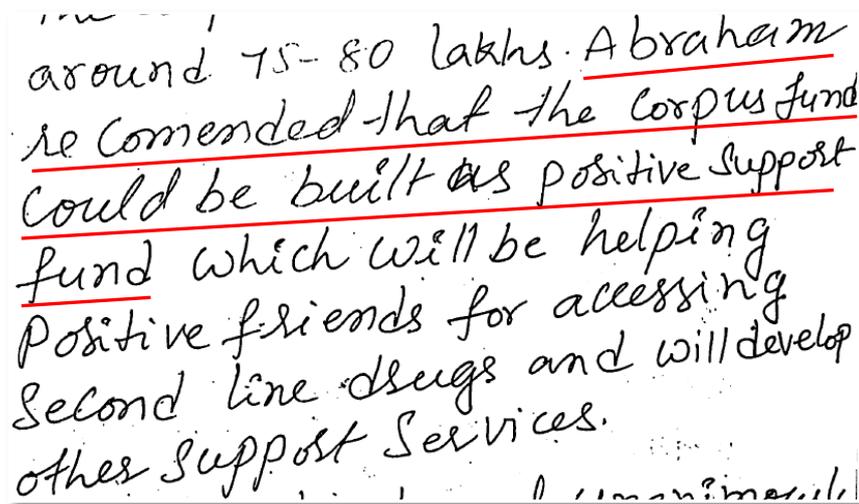


B. INP+ TRANSFER OF GRANT FUNDS TO PSF WAS CONTRARY TO THE GRANT AND SUB-AGREEMENTS

1. Under Mr. Abraham's Direction, INP+ Created and Funded PSF

42. The OIG found that Mr. KK Abraham, current General Secretary and former President of INP+, was the central force behind the creation and funding of the Positive Support Fund (PSF) by INP+. On 21 April 2006, INP+ held a board meeting at which then INP+ President, Mr. Abraham, recommended creating "a positive support fund which will be helping positive friends for accessing second line drugs and will develop other support services."²²

Excerpt from Minutes of INP+'s 21 April 2006 Board Meeting



around 75-80 lakhs. Abraham
re Comended that the corpus fund
could be built as positive support
fund which will be helping
positive friends for accessing
second line drugs and will develop
other support services.

43. The board unanimously agreed to create PSF with separate guidelines, terms of reference and autonomous status.²³ On 29 November 2006, Mr Abraham informed the INP+ board about the launch of PSF stating that "(PSF) aims to support the PLHA who are in need of second line drugs and to make their livelihood action through micro credit."²⁴

44. In December 2006 the two entities signed a MoU for "routing of funds from INP+ to PSF."

Excerpt from MoU between INP+ and PSF (1 December 2006)

WHEREAS the parties to this Memorandum named herein above hereby agree to establish an agreement for the routing of funds from INP+ to PSF with the intention of

²² INP+ Board meeting minutes, 21 April 2006.

²³ INP+ Board meeting minutes, 21 April 2006.

²⁴ Minutes of INP+'s "10th Annual General Body Meeting," 29 November 2006 (emphasis added).

45. According to the MOU, the purpose of the fund transfer was:
- a. To provide financial support for Diagnostic test [sic] like viral load and drug resistance to people living with HIV and their children;
 - b. To provide financial support for Anti Retro Viral (ARV) Treatment to people living with HIV and their children in India;
 - c. To provide financial support for social security scheme, health and life insurance etc.; and
 - d. To provide financial support for micro credit programs for the self-financial sustainability and livelihood options of people living with HIV.²⁵

46. The OIG’s review of the PSF bank account revealed that during the fiscal years 2005 to 2010, INP+ transferred US\$ 1.29 million to PSF,²⁶ with the first transfer of grant funds to PSF made in June 2006. The following table summarizes the transfers to PSF.

Funds transferred from INP+ to PSF between April 2006-March 2010 (by bank account)

INP+ Bank Account	Total (INR)	Total (US\$)
014010100310178	682,626	15,169
552010100048949	2,650,811	58,906
014010100276566	20,318,616	451,524
014010100276559	18,786,829	417,485
350010100065113	7,242,677	160,948
426-0-505518-8	1,300,000	28,888
436-1-006484-8	7,142,932	158,731
014010100482103 ²⁷	114,081	2,535
Total transfers from INP+ to PSF	58,238,572	1,294,186

47. All transfers shown in the table above were transacted at a time when Mr. Abraham was the President of PSF, in addition to serving as the President or General Secretary of INP+. Notably, the majority of these funds were transferred during a period when no Memorandum of Understanding existed between INP+ and PSF.

48. The investigation found that PSF was funded by INP+’s “unutilized” project funds. This is evidenced by the minutes of INP+’s 10th Annual Board Meeting on 29 November 2006, according to which Mr. Abraham said that “any savings of INP+ and the service charges received from its various projects will be transferred [sic] directly to PSF.”²⁸ The same statements were repeated in INP’s 2006/2007 annual report.²⁹

²⁵ Memorandum of Understanding between INP+ and PSF dated 1 December 2006.

²⁶ An additional US\$ 5,200 (INR 235,800 INR) was transferred to PSF but could not be traced to a specific INP+ bank account.

²⁷ This account is in the name of National HIV/AIDS Policy and Advocacy Center but funded entirely by transfers from INP+.

²⁸ Minutes of INP+’s “10th Annual General Body Meeting,” 29 November 2006 (emphasis added).

²⁹ INP+ Annual Report, 2006/2007.

Excerpt from Minutes of INP+'s 10th Annual Board Meeting (29 November 2006)

Positive Support Fund: Mr. Abraham informed the members about the launch of Positive Support Fund (PSF) in Pune that aims to support the PLHA who are in need of 2nd line drug and to make their livelihood action through micro credit. It was also informed that any savings of INP+ and the services charges received through its various projects will be transferred directly to PSF for the welfare of the millions of PLHA across the country. The General body members unanimously applauded the initiative taken by INP+.

Excerpt from INP+'s 2006/2007 Annual Report

The members were informed about the launch of Positive Support Fund (PSF) in Pune that aims to support the PLHA who are in need of second line drugs and to make their livelihood action plan by introducing micro credit programs. It was also informed that the savings of INP+ and the service charges received through its various projects will be transferred directly to PSF for the welfare of the PLHA across the country. The general body members unanimously applauded the initiative taken by INP+.

49. The fact that INP+ was transferring savings and service charges received from grant projects was confirmed by an audit report commissioned in 2009 by PFI and performed by R.G.N. Price & Co, which concluded that “funds given to the corpus of PSF signifies unutilized balance of amounts received by INP+ for various projects.”³⁰

³⁰ Audit by R.G.N. Price & Co., Report no. PSF/2009-10/01, January 2010.

Excerpt from Audit Report of PSF by R.G.N. Price & Co., commissioned by PFI³¹

In our view the funds given to the corpus of PSF signifies unutilized balance of amounts received by INP+ for various projects as INP+ was not having enough contributions to its corpus, from any other source for such transfers.

50. It is clear that a substantial portion of funds transferred to PSF constituted Global Fund grant monies. According to Mr. Abraham's own admission in a 21 February 2011 interview with the OIG, 50% of the amount transferred to PSF was from Global Fund funds. The investigation revealed that in fact the percentage is much higher.

Excerpt from ROC from 21 February 2011 OIG interview with Mr. Abraham³²

702 Understand. The mgmt. fee you charge on your project that you have given to PSF, how much did
703 you say you have given to PSF? Since it started?
704 1 million
705 1 million USD? So out of that 1 million USD that's been given to PSF out of mgmt. fees charged on
706 projects, would 80 percent of that be GF money? Or it's hard to work out? I'm just extrapolating
707 what you told me before.
708 50 percent.

51. This admission by Mr. Abraham is important in that it demonstrates that Global Fund grant monies were unquestionably used to fund PSF. However, as demonstrated below, there is credible and substantive evidence that the total amount of Global Fund funds transferred to PSF was, in fact, greater than the US\$ 500,000 figure provided by Mr. Abraham.

52. OIG's finding that Mr. Abraham underestimated the total loss to the Global Fund in his February 2011 representation to investigators is corroborated by the fact that he made a number of inconsistent statements on this issue. For example, in direct contrast to his statement to OIG in February 2011 that approximately 50% of funds transferred to PSF were from Global Fund grant monies, Mr. Abraham stated in his Reply to OIG's Interim Report in September 2011 that "INP+ never transferred Global Fund funds to PSF" (emphasis added).³³

³¹ Ibid.

³² KK Abraham, interview with OIG, 23 February 2011, lines 702-708.

³³ "INP+ Interim Comments to the OIG Report" (15 September 2011).

2. The Grant and Sub-Grant Agreements Requirements that Funds be used only for Program Purposes

53. Article 4 of the Grant Agreements between the Global Fund and PFI state that the “Principal Recipient may only use Grant funds for program activities which occur during the Program Term or as otherwise agreed in writing by the Global Fund.” Furthermore, Article 14 requires that, as a condition of providing grant funds to sub-recipients, the Principal Recipient:

enter into a grant agreement with each Sub-recipient creating obligations of the Sub-recipient to the Principal Recipient that are generally equivalent to those of the Principal Recipient under this Agreement, and which are designed to facilitate the compliance of the Principal Recipient with the terms of this Agreement. Such obligations shall include, but not be limited to, a requirement that the Sub-recipient employ all Grant funds solely for Program purposes...³⁴

54. Taken together, these provisions demonstrate a clear intent of the parties to the Grant Agreements to require PFI not only to use grant funds exclusively for program activities itself but also to ensure that its SRs (including INP+) do the same. Consistent with its obligation to ensure that INP+ used grant funds exclusively for grant purposes, PFI embedded the same requirement in its Sub-Grant Agreements with INP+, which states: “[t]he Sub Recipient may use Sub Grant funds, only for program activities which occur during the Program Term or as otherwise agreed in writing by PFI”.³⁵ Thus, under the Grant and Sub-Grant agreements, a failure by INP+ to use grant funds exclusively for program activities would represent a breach of the Grant Agreements.

3. Violations of Grant and Sub-Grant Agreements

55. As noted above, all of the grants in question were for ACT and PACT -related programs. However, PSF did not provide any ACT or PACT related services. A review of PSF’s accounting documents showed that its funds were consumed mostly by operating costs and “investments”, including purchasing land to build a hospital. According to Mr. Abraham, PSF also provided reimbursement of medical bills for approximately 25 HIV/AIDS patients. However, this too was not an ACT or PACT related service. Mr. Abraham does not refute the conclusion that Global Fund grant funds were not used for program purposes. Instead, he has said that the overhead fee charged by INP+, like a personal salary, could be utilized for whatever purpose INP+ desired.³⁶ The OIG has identified that such services were provided to 16 patients.

³⁴ Article 14 of the Standard Terms and Conditions of the Amended and Restated Program Grant Agreement between the Global Fund and PFI, IDA-405-G05-H (Round 4); Article 14 of the Standard Terms and Conditions of the Program Grant Agreement between the Global Fund and PFI, IDA-607-G10-H (Round 6).

³⁵ Article 3 of the Standard Terms and Conditions of the Sub-Grant Agreement between PFI and INP+, 12 June 2006 (Round 4); Article 3 of the Standard Terms and Conditions of the Sub-Grant Agreement between PFI and INP+, 21 June 2007 (Round 6).

³⁶ President of PSF, KK Abraham, interview with OIG, 23 February 2011, lines 401-411 (he stated, “[s]uppose Global Fund is giving a project and my salary will be utilized according to my own choice, it is not that Global Fund can dictate that your salary can be utilized for this, and if I am buying a shirt from my salary tomorrow Global Fund will come and tell me, I mean Global Fund will

56. As discussed above, both the Grant and Sub-Grant agreement required that funds given to INP+ be used “only for program activities which occur during the Program Term”. More specifically, as indicated in the Global Fund’s Round 4 and Round 6 proposal guidelines, overheads were intended to cover such costs as “office rent, utilities, internal communication costs, insurance, legal, accounting and auditing costs”.³⁷ Further, as stated in the INP 2006-07 annual report the funds transferred to PSF represented not just overhead fees but general savings from INP+ programs.

57. On the basis of the above, the OIG finds that the INP+ transfers to PSF constitute a breach of the Grant and Sub-Grant Agreements, since the funds were not used for program purposes, as required under those Agreements. This conclusion is shared by the Global Fund’s Legal Unit, which, in response to a draft of this report, wrote: “by INP+’s own admission, PSF was not implementing Global Fund-supported programs and thus, any funds transferred to it was in violation of the grant agreement[s] between PFI and INP+ (and correspondingly, the Grant Agreement between the Global Fund and PFI).”³⁸

4. Loss to the Global Fund

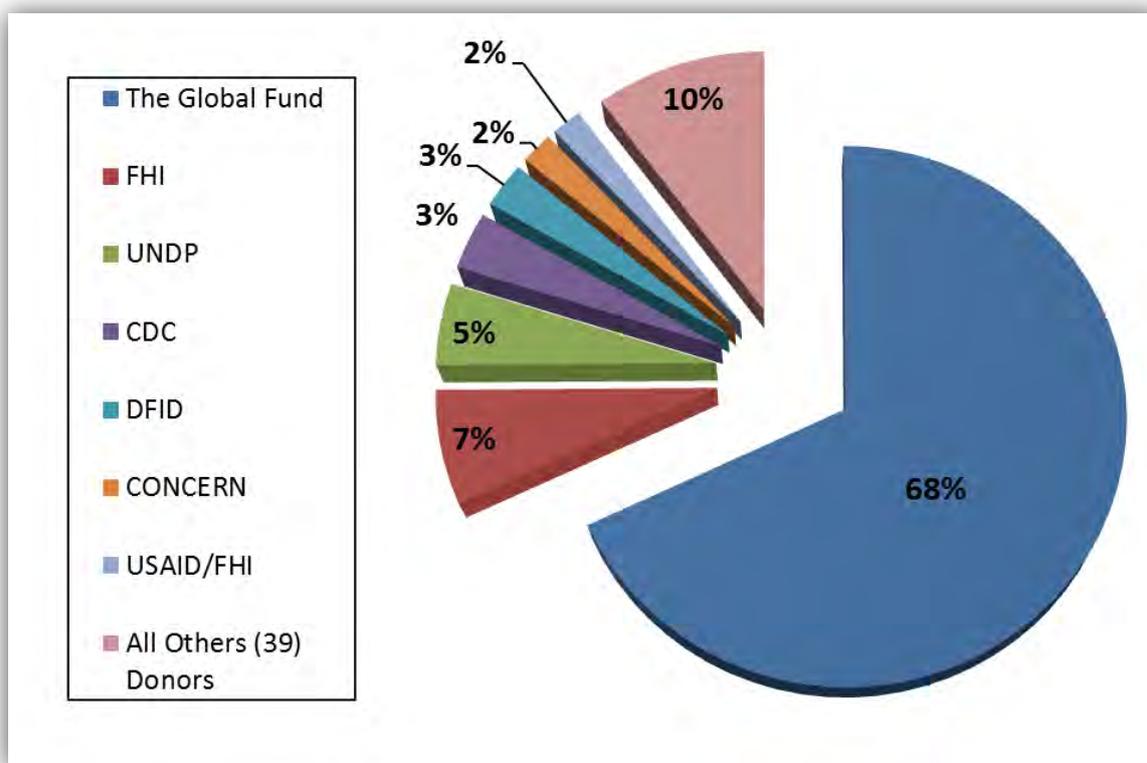
58. Between 2005 and 2010, INP+ received US\$ 16.09 million from all donors. Of this total, US\$ 10.88 million, or 68 %, came from PFI for purposes of executing ACT/PACT programs under the Rounds 4 and Round 6 India HIV/AIDS grants. The remaining US\$ 5.21 million came from 45 other donors, the largest of which were FHI, UNDP, CDC and DFID, CONCERN, and USAID. The following chart summarizes the source of INP+’s funding sources between 2005 and 2010.

not remove my shirt. The same adaptation I did that...Ok...INP done this much of work, INP got that money for their hard work, and that money how to utilize that is INP’s wish. . . ”)

³⁷ Guidelines for Proposals, Fourth Call for Proposals, Geneva, 10 January 2004; Guidelines for Proposals, Sixth Call for Proposals, Geneva, 5 May 2006.

³⁸ Memo from the Global Fund’s Legal Unit to the Office of the Inspector General, “Legal Issues Relating to Draft “Final Report of Investigation of India HIV/AIDS (Rounds 4 and 6) Funds Transferred to the Positive Support Foundation (PSF),” 13 September 2011, para 8.

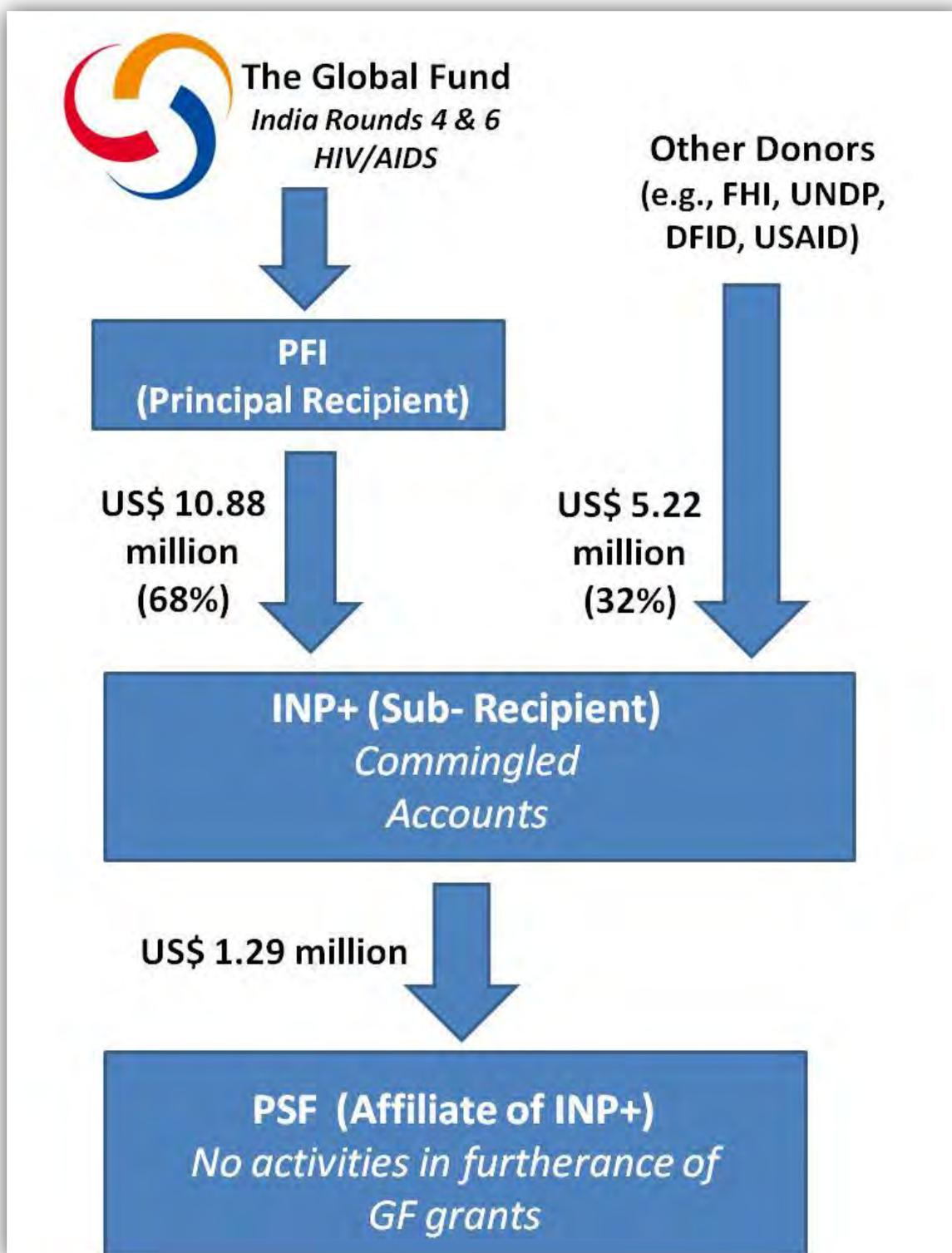
INP+'s Funding Sources Between 2005 and 2010³⁹



59. Financial forensic analysis conducted by the OIG has identified that US\$ 1.29 million of funds were transferred from INP+ to PSF between the 2005 and 2010 fiscal years. Unfortunately, calculating the precise portion of the funds that represent Global Fund sources has been made impossible by INP+'s failure to exercise due care in managing these funds and comingling of funds from multiple donors in the same bank accounts. Thus, another means of calculating loss must be used.

³⁹ The proportion of funding from the Global Fund vs. other donors is based on the OIG forensic audit report. The percentage breakdown of contributions by other donors is based on the PR Audit Report, November 2010, "Annexure Volume 2- INP+ and PSF Financial Statements".

Schematic of Comingling of INP+ Funding and Transfers to PSF



60. One approach to calculating loss could be to treat *the entirety* of the US\$ 1.29 million as loss to the Global Fund as the entire amount was in breach of the agreements. Such an approach would also find support in some domestic legal systems. Under U.S. federal law, for example, when funds related to certain illegal activities are comingled with clean funds, an entire bank account or business which was used to “facilitate” the underlying offense is subject to forfeiture (i.e. seizure) by the government.⁴⁰ This approach reflects the fact that tracing the source of comingled funds with precision is in some cases impossible and that requiring prosecutorial authorities to separate comingled funds in order to prove loss would incentivize comingling of funds by illicit actors.

61. The OIG’s approach to calculating loss in this case is significantly more lenient than this. INP+ received US\$ 16.09 million from all donors, of which US\$ 10.88 million, or about 68%, was received from the Global Fund. Applying this percentage to the transfer to PSF, we calculate that US\$ 872,000 of the amounts transferred constitute Global Fund resources. Absent contrary evidence from INP+, this calculation represents a conservative calculation of the amount of loss of Global Fund funds.

5. INP+ Deprived the Sub-SRs of Funding

62. The OIG compared grant funds received on behalf of Sub-Sub-Recipients (Sub-SRs) with the amounts actually disbursed to those Sub-SRs, and found that, for Round 4 (Phase I and II) and Round 6 (Phase I), its Sub-SRs (DLNs, SLNs, TCCs, and PLCs) received US\$ 1,284,166 less than the amount INP+ claimed for those entities. The table below compares the grant funds received by INP+ for distribution to the Sub-SRs versus the amounts that INP+ actually disbursed to these entities. The information in the table below was ascertained from the annual audit reports (addressed to PFI) of Karpagam & Co. Chartered Accountants, who audited the ACT and PACT programs implemented by INP+ from 2005 to 31 March 2010.

Table Comparing Grant Funds Received by INP+ on Behalf of Sub-SRs vs. Grant Funds Actually Transferred to Sub-SRs (Values in US\$)

		Grant Round (Phase)			Total
		Grant (Phase)	Round 4 (1)	Round 4(2)	
Month/Year Covered		4/2005 - 3/2007	4/2007- 3/2010	6/2007- 5/2009	
Funds Received for SLNs	Budget			332,577	332,577
	Total Disbursed			268,252	268,252
	Undisbursed Funds Kept by			64,325	64,325

⁴⁰ See 18 USC 981; U.S. v. Certain Funds on Deposit (E.D.N.Y. 1991), 769 F. Supp. 80 (“This section has been construed by the district courts as authorizing the forfeiture of an entire bank account or business which was used to ‘facilitate’ the laundering of money in violation of 18 U.S.C. § 1956”); United States v. Contents of Account Numbers 208-06070 and 208-06068-1-2, 847 F.Supp. 329, 335 (S.D.N.Y.1994); United States v. Certain Accounts, Together with all Monies on Deposit Therein, 795 F.Supp. 391, 396-97 (S.D.Fla.1992).

	Grant Round (Phase)				Total
	Grant (Phase)	Round 4 (1)	Round 4(2)	Round 6(1)	
	Month/Year Covered	4/2005 - 3/2007	4/2007- 3/2010	6/2007- 5/2009	
	INP+				
Funds for DLNs	Budget	1,025,743	4,070,004	1,284,850	6,380,597
	Total Disbursed	1,019,126	3,698,091	937,796	5,655,013
	Undisbursed Funds Kept by INP+	6,617	371,913	14,554	393,084
Funds for TCC	Budget	234,252	1,013,272		1,247,524
	Total Disbursed	171,921	782,233		954,154
	Undisbursed Funds Kept by INP+	62,331	231,039		293,370
Funds for PLC	Budget	293,750	1,197,377		1,491,127
	Total Disbursed	80,328	877,412		957,740
	Undisbursed Funds Kept by INP+	213,422	319,965		533,387
Total	Total Budgeted	1,553,745	6,280,653	1,284,927	9,119,325
	Total Disbursed	1,271,375	5,357,736	1,206,048	7,835,159
	Total Undisbursed Funds Kept by INP+	282,370	922,917	78,879	1,284,166

63. Thus, based just on funds withheld from its Sub-SRs in Round 4 and part of Round 6 (which does not include unspent funds from Phase II of Round 6 or funds intended for purposes other than for Sub-SRs, such as the INP+ Secretariat), INP+ had a source of unutilized funding amounting to almost exactly as much (US\$ 1.28 million) as the total transferred to PSF. This amount would have been available for transfer to PSF, consistent with the intent expressed in INP+'s 2006/2007 Annual Report that: "any savings of INP+ and the service charges received from its various projects will be transferred directly to PSF." This finding confirms the conclusion that the above calculation of loss (US\$ 872,000) due to transfers to PSF is conservative and indicates that INP+ withheld enough funding from its Sub-SRs that Global Fund funds could have constituted the totality of the funding received from INP+ (US\$ 1.29 million).

64. Separately -- irrespective of whether the US\$ 1.28 million withheld from Sub-SRs was transferred to PSF or retained in some other manner by INP+ -- the failure by INP+ to transfer the funds to its Sub-SRs is itself a violation of the Grant and Sub-Grant Agreements, absent an adequate and documented justification. INP+ deprived the Sub-SRs (which provided important ACT and PACT-related services) of funds earmarked for their use and likely used at least, in part, to fund an organization, PSF, which provided no program-related services. Absent adequate documentation of appropriate program-related use of this withheld funding, the total constitutes a loss to the Global Fund. Furthermore, absent proof that the amount double counts the PSF loss calculation above, this loss should be considered *additional to* the US\$ 872,000 loss described above.

C. INP+ CONCEALED TRANSFERS TO PSF

1. Failure to Report Transfers and Underreporting in INP+ Annual Reports

65. The investigation also found evidence that INP+ concealed transfers to PSF by not reporting or underreporting contributions in its annual reports and by disguising transfers as donations from intermediaries. INP+'s annual report for the 2006/2007 fiscal year altogether failed to report transfers to PSF. Whereas PSF bank statements reveal that INP+ transferred US\$ 563,734⁴¹ to PSF during the year in question, the only donation/contribution reported in that year's report is to HDRN, in the amount US\$ 141,222.⁴²

[INP+ Income and Expenditure for the year ended 31st March 2007, included in INP+ 2006-2007 Annual Report⁴³](#)



"	Contribution to HDRN	6,355,026.10
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66. Similarly, the 2007/2008 Annual Report also failed to report transfers to PSF and grossly underrepresented the amount transferred. PSF bank statements reveal that INP+ transferred US\$ 128,589 to PSF during the year in question. The Annual Report only showed contributions (to an unnamed recipient) of US\$ 7,937.

⁴¹ INR 18,466,024

⁴² INP+ Annual Report, 2006-2007, income and expenditure table.

⁴³ INP+ 2006-2007 Annual Report, p.34

INP+ Income and Expenditure for the year ended 31st march 2008, included in INP+ 2007-2008 Annual Report⁴⁴

"	Micro Credit	358,815.00
"	Contribution	6,064.00

67. INP+ continued to underreport its contributions to PSF in subsequent years. For example, as shown in the figure below, in the annual report for the 2008/2009 fiscal year, INP+ reported transferring INR 12,800,000, US\$ 284,444, to PSF. However, PSF's bank statements for the same period show that PSF in fact received US\$ 337,258,⁴⁵ from INP+, significantly more than was reported.

INP+ Income and Expenditure for the year ended 31st March 2009, included in INP+ 2008-2009 Annual Report⁴⁶

"	Library	8,988.00
"	Contribution to PSF	12,800,000.00
"	Office Shifting	76,088.00

68. In the annual report for the 2009/2010 fiscal year, INP+ reported transferring INR 11,675,378, US\$ 259,452, to PSF. However, PSF's bank statements for the same period show that PSF in fact received US\$ 264,609,⁴⁷ from INP+.

INP+ Income and Expenditure for the year ended 31st March 2010, included in INP+ 2009-2010 Annual Report⁴⁸

"	Contribution to PSF & Others	11,675,378.00
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69. Likewise, the audit report commissioned by the CCM found several instances of concealment of transfers to PSF. For example, it found that despite the fact that INR 1,650,000 was transferred to PSF for a building fund, the INP+ Income and Expenditure statement for the year 2007-2008 failed to mention any contribution to such a fund.⁴⁹

⁴⁴ INP+ 2007-2008 Annual Report, P.59

⁴⁵ PSF AXIS bank statements a/c no.4862 dated April 2008-March 2009 show that PSF received deposits totaling INR 21,179,405 from INP+.

⁴⁶ INP+ 2008-2009 Annual Report, p.63

⁴⁷ INP+ 2009-2010 Annual Report, p. 59

⁴⁸ INP+ 2009-2010 Annual Report, p. 59

⁴⁹ The PR audit firm's Audit Report at 5.2.37.

70. In total, as set forth in the table below, between 2006 and 2010, INP+ reported US\$ 543,896,⁵⁰ of contributions to PSF, HDRN and “others.”⁵¹ INP+’s actual contributions were at least US\$ 1.29 million⁵² to PSF alone, almost double what it reported contributing in total to PSF, HDRN and “others” during the same period.⁵³

Comparison of Reported vs. Actual Transfers from INP+ to PSF

Fiscal Year	Reported Contribution to PSF (US\$)	Actual Transfer to PSF (US\$)
2006/7	0	563,734
2007/8	0	128,589
2008/9	284,444	337,258
2009/10	259,452 ⁵⁴	264,609
Total	543,896	1,294,190

71. Thus, INP+ failed to report a total of US \$750, 294 (\$1,294,190 minus \$ 543,896) of funds transferred to PSF. In light of this discrepancy, the audit report found that with regard to INP+’s financial statements “the levels of disclosure [sic] appear to be inadequate.”⁵⁵

72. However, the first mention of these transfers in INP+’s Annual Reports appeared only in its 2008/2009 Annual Report, issued in December 2009, *three years after the transfers to PSF commenced*. The fact that the first reference to the transfers to PSF appeared in the December 2009 publication of the Annual Report is highly relevant as this was immediately following allegations which surfaced in October 2009 regarding transfers to PSF.⁵⁶

73. Apart from INP+’s underreporting and omission of relevant information concerning transfers to PSF in its Annual Reports, it also omitted relevant financial information in the materials presented to auditors. Specifically, OIG’s review of both the PR audit report and OIG forensic audit firm report of INP+ revealed that INP+ provided the PR’s auditors with an incomplete list of bank accounts. The OIG forensic audit firm’s audit identified what appear to be three additional bank accounts that INP+ failed to include in its financial representations to the PR audit firm.

74. These bank accounts are of interest because two of the accounts, both with Standard Chartered Bank show transfers from INP+ to PSF:

⁵⁰ INR 31,189,219

⁵¹ INP+ Annual Reports, 2006-2010. Total is the sum of all contributions listed in the Annual Reports.

⁵² INR 58,238,572

⁵³ INP+ Annual Reports, 2006-2010, income and expenditure table. And PSF bank statements showing deposits from INP+

⁵⁴ Reported as “to PSF and others”.

⁵⁵ The PR audit firm’s Audit Report at 5.2.45.

⁵⁶ See, e.g., Manoj Pardesi email communication to KK Abraham (6 October 2009); Naresh Yadav email communication to KK Abraham (7 October 2009).

INP+ Bank Accounts Identified by the OIG Forensic Audit Firm

A/C	Dates Reviewed	Amount transferred to PSF
436-1-006-484-8	Sep 2006 - Mar 2009	INR 7,182,933 (US\$ 159,620)
426-0-505518-8	Jan 2005 - Oct 2006	INR 1,300,000 (US\$ 28,888)
TOTAL		INR 8,982,933 (US\$ 188,509)

75. The existence of these additional accounts explain the discrepancy between the PR audit firm's calculation of the total amount transferred from INP+ to PSF as US\$ 1.09 million, whereas this total was calculated by the OIG forensic audit firm as US\$ 1.29 million.

76. In addition to underreporting the amounts transferred from INP+ to PSF in its Annual Reports, INP+ also provided misleading information to the PR audit firm regarding transfers to PSF again understating the actual amounts transferred as indicated in the table below that was provided to the PR audit team.

Details of transfers to PSF provided by INP+ to the PR audit firm⁵⁷

POSITIVE SUPPORT FUND (PSF)

Details of Funds received by PSF

Year	Interest	Donations	Contribution by INP+	Total
2006-07	494,340	70,800	4,421,800	4,986,940
2007-08	1,401,759	2,233,000	775,000	4,409,759
2008-09	1,129,917	127,101	12,800,000	14,057,018
2009-10	1,812,107	7,510	11,500,000	13,319,617
Total	4,838,123	2,438,411	29,496,800	36,773,334

77. As noted above, the International Financial Institutions Anti-Corruption Task Force Uniform Framework's definition of fraud stipulates:⁵⁸

A fraudulent practice is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

⁵⁷ The PR audit report, Annexure Volume 1- Letters and other Evidence, p. 6

⁵⁸ The international Financial Institutions Task Force. See <http://www.adb.org/Documents/Reports/IFI-TaskForce-on-Anticorruption/IFI-TaskForce-on-Anticorruption.pdf>.

78. The fact that INP+ failed to include mention of transfers of significant sums to PSF in annual reports, as well as to auditors, demonstrates an intent to mislead PFI, the principal recipient of GF funds and a recipient of these reports. In addition, as noted above, INP+ failed to request the approval of PFI to transfer grant funds to PSF.

79. Given that INP+ omitted relevant information with regard to the transfers in successive reports over multiple years and failed not only to obtain, but also to seek, consent from PFI regarding these transfers, these omissions cannot be seen as merely acts of negligence. Material omissions on this level and in this many instances rise to the level of constructive concealment. Intentional concealment is evidence of a consciousness of guilt.

2. Disguised Transfers through Third Parties

80. The OIG also found credible evidence of an organized effort by Mr. Abraham to disguise its contributions to PSF by routing them through third party individuals' accounts. According to the former president and treasurer of INP+ who was also former secretary and vice president of PSF, in late 2007, INP+ President Abraham gave him INR 50,000 cash (US\$ 1,100) with the instruction to deposit the cash in the individual's personal bank account, and then to write a check to PSF for the same amount, to make it appear as a private donation.⁵⁹ According to this individual, when he asked Mr. Abraham where the money was from, Mr. Abraham told him it was savings from INP+ workshops. The bank statements corroborate that, in October 2007, the individual wrote a check for INR 50,000 to PSF⁶⁰ and PSF's Axis bank account shows a corresponding check deposit. The OIG was not able to verify that INR 50,000 was deposited in the individual's account, nor confirm that the specific withdrawal of INR 50,000 in cash came from INP+'s accounts. However, INP+'s bank account statements show a number of cash withdrawal transactions in excess of INR 50,000 in the month of September 2007.⁶¹

81. The witness also informed OIG of other such instances of fictitious "donations" made to PSF from INP+ funds. In the case of these transfers, the OIG was able to corroborate the entire chain of each transaction. On 4 August 2009, INP+ Axis bank account no. 310178 shows check no. 987104 in the amount of INR 10,000 made payable to K. Vijayasri. The following day, 5 August 2009, K. Vijayasri deposited the same amount into PSF's account. On 4 August 2009, INP+ Axis account no. 310178 shows check no. 987110 in the amount of INR 10,000 made payable to Kanmani Chandran. On the next day, 5 August 2009, Mr. Chandran deposited the same amount into PSF's account. Each of the deposits into the PSF account was made one day after the INP+ account was debited.

⁵⁹ Record of Conversation with an OIG investigator, New Delhi, India, 7-8 April 2011.

⁶⁰ ICICI Bank Limited bank statement for a/c 004701523966

⁶¹ INP+ Axis Bank a/c 0178 statement, September 2007.

Schematic of Disguised Transfer from INP+ to PSF through K. Vijayasri

INP+

INDIAN NETWORK FOR PEOPLE LIVING WITH HIV/AIDS (FC)
 NEW NO.41,OLD NO.42/3,2ND MAIN ROAD
 KALAIMAGAL NAGAR,EKKADUTHANGAL
 CHENNAI
 600097

Customer No :014000883
 Scheme :SB-TRUST/SOCIETY/NGO/GOVT
 Currency :INR

Statement of Account No :014010100310178 for the period (From : 01-04-2009 To : 31-03-2010)

Tran Date	Chq No	Chq Date	Particulars	Debit	Credit	Balance	Init. Br
04-08-2009	87109	31-07-2009	K VIJAYASRI K.	10000.00		18307696.54	014

K. Vijayasri



One day
apart

Same
amount

POSITIVE SUPPORT FUND(PSF)
 FLAT NO 33,9 TH FLOOR,MAHAVEER RESIDENCY
 L.B.PATEL ROAD,SALISHBURY PARK
 PUNE
 MAHARASHTRA
 411037

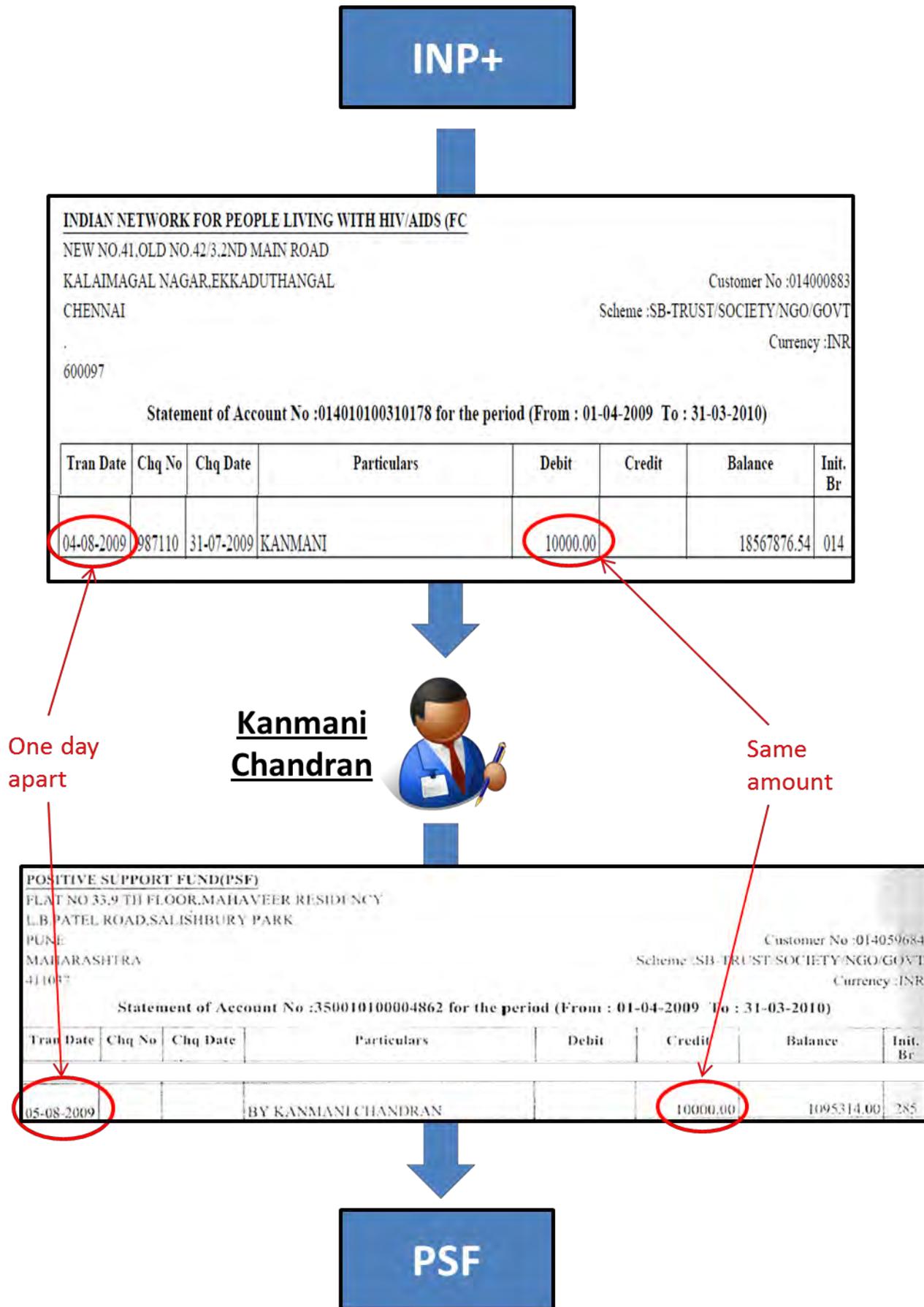
Customer No :014059684
 Scheme :SB-TRUST/SOCIETY/NGO/GOVT
 Currency :INR

Statement of Account No :350010100004862 for the period (From : 01-04-2009 To : 31-03-2010)

Tran Date	Chq No	Chq Date	Particulars	Debit	Credit	Balance	Init. Br
05-08-2009			BY K VIJAYASRI		10000.00	1085314.00	285

PSF

Schematic of Disguised Transfer from INP+ to PSF through Kanmani Chandran



82. As demonstrated by the figures above, forensic evidence of these transfers identified by OIG confirms the whistle-blower's description of the scheme to disguise transfers to PSF as 'donations'. Thus, the OIG finds that there is substantive and credible evidence of the existence of an organized effort by Mr. Abraham to conceal the transfer of funds from INP+ to PSF by means of fictitious 'donations' to PSF bank accounts.

D. FRAUD AND ABUSE BY PSF

1. Mr. Abraham Intentionally Placed Himself in a Position Where He Suffered From a Conflict of Interest

83. Mr. Abraham served both as President of PSF and either President or General Secretary of INP+ during the period when transfers of funds were made from INP+ to PSF. Indeed, the PR audit firm found that the overlap between the board members, including Mr. Abraham, and between the two entities was such that PSF should be considered a "related entity" vis-à-vis INP+. ⁶²

Excerpt from October 2010 Audit Report (at 3.2.5)

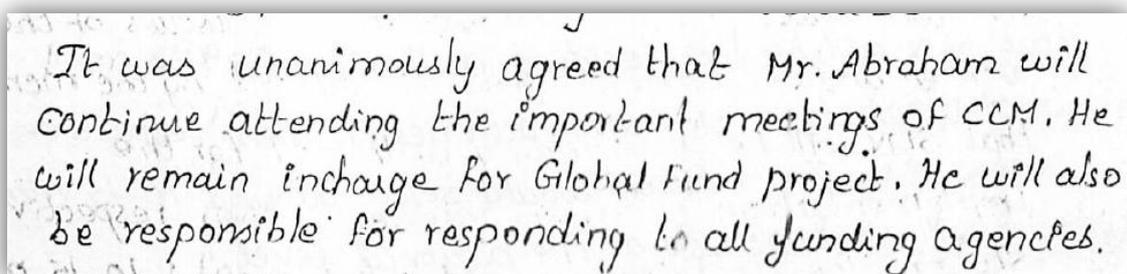
PSF's Memorandum of Association revealed that the organization qualifies as a 'related entity' as it is controlled by the same office bearers as INP+. Mr K.K Abraham, the General Secretary of INP+ is the President of PSF; Ms Jahnabi Goswami, the President of INP+ is the Treasurer of PSF; Ms Renuka Kottagiri, the Treasurer of INP+ is an Executive Board Member in PSF. Mr MK Shah, the Financial Advisor at INP+ is also the Financial Advisor at PSF and his son, Mr RM Shah is the Administrative-in-charge at PSF. For the complete

84. Even when Mr. Abraham stepped down as President of INP+ and instead assumed the role of General Secretary of INP+ in October 2006 he was still in control of all Global Fund grant projects, as evidenced by the INP+ Board Minutes below: ⁶³

⁶² The PR audit firm's Fiduciary Review and Institutional Assessment of INP+: Final Report (October 2010).

⁶³ INP+ Board Minutes (16 October 2006).

INP+ Board Minutes from 16 October 2006



It was unanimously agreed that Mr. Abraham will continue attending the important meetings of CCM. He will remain in charge for Global Fund project. He will also be responsible for responding to all funding agencies.

85. Thus, Mr. Abraham was transferring funds for Global Fund projects over which he had control as an INP+ Board member to an organization, PSF, in which he also served as president. This arrangement constituted a conflict of interest, which Mr. Abraham used to control PSF. From there, Mr. Abraham was able to utilize grant funds for his personal enrichment and that of other persons with whom he was associated, as set forth below.

86. The lack of transparency created by this conflict of interest is evident from the absence of any official authorization of transfers to PSF. Indeed, the first transfer from INP+ to PSF was made in June 2006, several months before the Memorandum of Understanding between these two entities was signed in December of that year.⁶⁴ Upon the expiration of this MoU in November 2007, no agreement between INP+ and PSF existed until December 2010.

2. Mr. Abraham's Control of PSF

87. Mr. Abraham exercised exclusive control of PSF. Mr. Abraham ensured this capacity through the execution of the organization's Memorandum of Association (MoA). Dated 31 October 2006, this document stipulates that the President and Vice President are considered "founder members", and "shall be members of the society for life". In addition, under the MoA, the president, Mr. Abraham, had the exclusive right to appoint the other five board members.⁶⁵

PSF Memorandum of Association (31 October 2006)

5. Types of Members :
 - a. Founder Members : President & Vice President Signatories of the Memorandum of Association of the Society shall be founder member of the society, A founder member of the society shall be member of the society for life and he shall pay Rs. 1000/- as life time subscription. Other five members shall be appointed from positive network by president.

⁶⁴ This point is highlighted in the OIG forensic audit firm "The Global Fund Mission to India—Forensic Accounting Report" (24 June 2011).

⁶⁵ PSF Memorandum of Association, Schedule "B" (31 October 2006).

88. This same document stipulates that the authorised signatories of the PSF bank accounts are any two of the following: President, Secretary and Treasurer.⁶⁶ Two of the three positions are occupied by individuals who are signatories to INP+ bank accounts.

22. Bank Accounts :

The Society may open bank account in any Nationalised, Scheduled/Post Office or any approved Co-operative Bank. The Bank account shall be operated with the signatures of any two out of President, Secretary and Treasurer.

89. Taken together, the fact that Mr. Abraham had a lifelong appointment to the PSF Board as a founding member of the organization and that he was a signatory to PSF bank accounts, allowed Mr. Abraham to have full and unfettered access to PSF funds. Indeed, he had the exclusive right to appoint the other board members, and thus was not subject to any accountability mechanism.

90. In addition, Mr. Abraham made unilateral decisions without consent from PSF's Board of Directors, such as the decision to purchase land to ostensibly build a hospital, as detailed below. Indeed, Mr Abraham only informed the PSF board of the purchase after he had already purchased the land and commenced payments.⁶⁷ In addition, the investigation has identified evidence that Mr. Abraham purchased a vehicle for his personal use with unspent HDRN project funds without consent from the PSF board.⁶⁸

91. When allegations eventually surfaced in September and October 2009 regarding both the transfers from INP+ to PSF and the failure of PSF to share original proposals and budgets of projects with relevant sub-SRs, Mr. Abraham simply failed to respond. When asked by the OIG as to why he did not issue a statement in response to the allegations, Mr. Abraham stated that he "felt that he had to keep quiet. If something I will respond they will take it out [of context] and they will respond back to me."⁶⁹

3. PSF's Stated Programmatic Goals

92. By Mr. Abraham's own admission, the only service delivered by PSF was to pay for the medical expenses of between 20 and 25 PLHIV persons, all of whom were PSF board members or of associated sub-SRs.⁷⁰ The OIG has confirmed that expenses were paid for 16 patients, all of whom were members of various SLNs. Mr. Abraham purchased land on behalf of PSF on which he has claimed the intention to build a hospital; however, several years after this purchase the land remains vacant. The objective of constructing a hospital is not included in PSF's original MoA.

93. Of particular importance is Mr. Abraham's acknowledgement to the OIG that the SLNs could deliver all of the objectives described in the PSF MoU. This fact, as well as the

⁶⁶ PSF Memorandum of Association, Schedule "C" (31 October 2006).

⁶⁸ Ibid.

⁶⁹ For example, Mr. Abraham did not register a response to an 7 October 2009 email communication from INP+ Vice President, Naresh Yadav, regarding both the transfer of money from INP+ to PSF and the failure to share original proposals and budgets of projects with relevant sub-SRs.

⁷⁰ KK Abraham Interview with OIG (25 February 2011).

failure by PSF to fulfill any of its stated objectives in its MoA, raises the question as to the rationale for the establishment of PSF in the first instance. There is no evidence that PSF was necessary at all. As detailed below, although PSF did not take any actions or make payments in furtherance of its stated objectives as per its MoA, it did, however, pay for personal expenses for Mr. Abraham and his associates.

4. Expense Payments that benefited MR. Abraham and His Associates

a) Paid for Rent, Utilities and Renovations Related to a Residential Flat Occupied by a PSF Employee and a Close Associate of Mr. Abraham

94. Between May 2006 and May 2007, PSF's registered business address and operational headquarters was a residential flat, located at Flat No. 33, Mahavir Residency, Pune.⁷¹ The flat was jointly owned and inhabited by PSF's President Mr. Abraham and his close associate and PSF's Financial Advisor, Mr. Manulal K Shah.⁷² In May 2006, Mr. Abraham and Mr. MK Shah signed a "leave and license" agreement with PSF treasurer Jahnabi Goswami purportedly granting PSF the non-exclusive use of the flat for business purposes. Pursuant to the agreement, PSF paid Mr. Abraham and Mr. Shah US\$ 222 per month, or approximately, US\$ 2,667 during the twelve months from May 2006 and 2007.

95. In his interviews with the OIG, Mr. Abraham conceded that the apartment was used primarily as his residence during this time. He states, however, that one room of the flat was used for business purposes, justifying the lease arrangement. Nonetheless, the cost paid by PSF was far in excess of the market rate for a single room. PSF bank statements show, that a few years later, PSF paid just double that amount for a large headquarters consisting of an entire floor of commercial office space and a secure parking area.⁷³ There was also an inherent conflict of interest in a financial agreement between Mr. Abraham and PSF that he initiated and authorized, concerning an organization he controlled and corresponding benefits he then received in the form of rental payments.

96. In May 2007, PSF's operations moved to the National YMCA building located at 382 Rastapeth, Quarter Gate, Pune.⁷⁴ However, the organization kept its registered business address at the residential flat and continued to pay taxes and utility bills for those premises.⁷⁵

⁷¹ PSF Memorandum of Association

⁷² Flat was jointly owned by Mr. MK Shah and Smt Waykar Vina Kiran as indicated on tax receipt dated 10 December 2007.

⁷³ PSF Bank Account No. 4862

⁷⁴ Leave and License Agreement between PSF and YMCA dated

⁷⁵ Forensic audit report, 24 June 2011, annexure 6.1

Photos of Residential Apartment Paid for in Part by PSF



Taxes Paid on Flat No. 33 After PSF Moved Business to a New Location

PSF
POSITIVE
SUPPORT
FUND

CASH VOUCHER

PSF No. 78
Date 10/12/10
Rs. 5483/-

Pay to The Assessor & Collector of Taxes PMC.

Rs. in words Five thousand four hundred eighty three only —

being Corporation Tax

and debit Maintenance etc

Authorised by [Signature]

Recd. above sum of Rs. 5483/-

Paid by cash or cheque Drawn on Bank Axis Bank Ltd/1562
a/c no. 034863

4TH FLOOR, YMCA BUILDING, QUARTER GATE, 382, NEW RASTA PETH, PUNE - 411 011. Receiver's Signature

97. PSF's accounting vouchers also show that PSF (and thus the Global Fund) paid for renovations of the flat such as carpentry work, painting and polishing furniture, as well as furnishing such as a glass mirror for the bathroom, wash basin, mattresses, meeting table and chairs, sofa, safety entrance door, collapsible gate for balcony, and a supply of gas geyser.

Funds Used to Paint Walls and Ceiling and French polish Furniture

	CASH VOUCHER	
	No.	52
	Date	27/7/06
	Rs.	14000/-
Pay to	Vasant Gaud	
Rs. in words	Fourteen thousand only	
being	labour charges for painting wall ceiling & furniture with french polish	
and debit	furniture etc	
Authorised by	Recd. above sum of Rs. 14000/- g. H. and P. T. S.	
Paid by <input type="checkbox"/> cash <input checked="" type="checkbox"/> or <input type="checkbox"/> cheque	Drawn on Bank UTI Bank Sahakar Nagar ch no. 013450	
FLAT NO. 33, MAHAVIR RESIDENCY, L.B. PATEL ROAD, SALISBURY PARK, PUNE-411037.		Receiver's Signature

Renovations Made for New Doors on Flat No. 33

	CASH VOUCHER	
	No.	31
	Date	23/6/06
	Rs.	6000/-
Pay to	R. M. Shale	
Rs. in words	Six thousand only.	
being	supply & fabricating & fixing of safety door - 2 Nos.	
and debit	Maintenance etc	
Authorised by	Recd. above sum of Rs. 6000/-	
Paid by <input checked="" type="checkbox"/> cash <input type="checkbox"/> or <input type="checkbox"/> cheque	Drawn on Bank	
FLAT NO. 33, MAHAVIR RESIDENCY, L.B. PATEL ROAD, SALISBURY PARK, PUNE-411037.		Receiver's Signature

98. Although these changes were made during the period that PSF operated from the flat, the nature of the renovations and the fact that PSF relocated its operations just a year after assuming the lease, supports a finding that it is more likely than not that they were not intended to benefit PSF but rather the individual(s) residing there. Indeed, a June 2011 audit report analyzed payments made for the flat. In virtually every single

instance of payment, the audit found that there was “insufficient evidence to substantiate that the expense is for a business purpose.”⁷⁶

b) PSF Hired Personal Friends of Mr. Abraham and Paid Them in Excess of Stated Salaries

99. The CCM commissioned audit found that Mr. Abraham personally selected key staff of PSF and employed personal friends without using proper recruitment processes. In addition, it found that Mr. Abraham paid these personal friends salaries above market rate.⁷⁷ For example, Mr. Abraham hired his close personal friend and flat mate Mr. MK Shah as a Financial Advisor, and Mr. Shah’s son, Mr. RM Shah, as the PSF’s Coordinator. Neither Mr. MK Shah nor Mr. RM Shah was qualified for these positions.⁷⁸

100. In an interview with the OIG, Mr. Abraham acknowledged that he installed long time friends in positions at PSF without recruitment processes. He stated that MK Shah was paid between 50,000 and 60,000 INR per month from (INP and PSF) and that RM Shah was paid between 20,000 and 30,000 INR per month .⁷⁹

101. The OIG’s investigation further found that Mr. MK Shah and Mr. RM Shah received payments from PSF in excess of their stated salaries, as demonstrated below.

Comparison of Stated PSF Salaries with Actual Payments (in INR) from 2006 to 2010 ⁸⁰

Name	Position	Total Salary Payments Based on PSF Salary Table (2006-2010)	Actual Amount Paid (2006-2010) ⁸¹
RM Shah	Finance Manager	362,500	2,459,400
MK Shah	Document Consultant	430,000	763,000
Mr. Abraham	Secretary-General	0	77,500

102. As shown in the table above, the PSF bank accounts demonstrate that RM Shah and MK Shah received money from PSF in addition to the amounts they declared to the CCM auditors. Further, although Mr. Abraham was not listed in the PSF salary details, PSF

⁷⁶ Annex 1, the OIG forensic firm “The Global Fund Mission to India—Forensic Accounting Report” (24 June 2011).

⁷⁷ In the 25 February 2011 interview, the forensic accountant stated that a professional chartered accountant with 2-3 years’ experience would receive salary between 40,000 -45,000.

⁷⁸ PR Audit report, Annexure Volume 1 - Letters and other evidence, p. 15: CV & Employment Contract of RM Shah and p. 19: CV & Employment Contract of MK Shah

⁷⁹ Interview with KK Abraham (25 February 2011).

⁸⁰ The stated salaries are taken from the “PSF Salary Table” provided by PSF to the OIG at the time of the investigation. The actual amount reflects the amount of payments made to the individuals based on the PSF Axis bank statement for a/c no. 4862.

⁸¹ PSF bank account statements

bank statements show that he received payments from PSF between August 2006 and April 2007 totaling US\$ 1,700.⁸²

103. The OIG’s investigation also found that Mr. MK Shah received salaries and/or consultancy fees from other projects concurrently with salaries from PSF.

Table of payments (2006-2007) to Mr. MK Shah⁸³

MK Shah						
2006-2007						
	GLOBAL	HDRN	NACO	DFID	HIVOS	Total
Apr-06	20,000	10,000	20,000	15,000	-	65,000
May-06	20,000	10,000	20,000	15,000	-	65,000
Jun-06	26,000	10,000	20,000	15,000	-	71,000
Jul-06	22,000	10,000	20,000	15,000	-	67,000
Aug-06	22,000	10,000	20,000	15,000	-	67,000
Sep-06	22,000	10,000	20,000	15,000	-	67,000
Oct-06	7,000	10,000	20,000	15,000	-	52,000
Nov-06	22,000	-	-	-	-	22,000
Dec-06	22,000	-	-	-	14,000	36,000
Jan-07	22,000	-	-	-	7,000	29,000
Feb-07	22,000	-	-	-	7,000	29,000
Mar-07	22,000	-	-	-	7,000	29,000
	249,000	70,000	140,000	105,000	35,000	599,000

c) Purchase of Cars for Mr. Abraham’s Personal Use

104. PSF’s accounting vouchers reveal that payments of US \$8,756⁸⁴ were made to purchase a car in Mr. Abraham’s name.⁸⁵ The car is registered to “Mr. Abraham KK, President of PSF” and listed to his private address.⁸⁶ The manner in which this transaction was effectuated allows Mr. Abraham the ability to liquidate the car on his own.

⁸² Review of PSF Axis bank statement for a/c no. 4862 revealed that payments totaling INR 77,500 were made to Mr. Abraham between August 2006 and April 2007.

⁸³ Document found on KK Abraham’s computer.

⁸⁴ INR 394,039

⁸⁵ PSF cash voucher 90, dated 18 October 2006; And, receipt no. REC006004199, dated 18/10/2006, Chowgule Industries Limited, showing purchase of vehicle.

⁸⁶ PSF cash voucher 61, dated 30 September 2007. “Certificate Cum Policy Schedule” from National Insurance Company LTD., lists the vehicle as a “private vehicle” and states the registration address as: Flat No. 33, Mahaveer Residency, L.B. Patel, Salisbury Park, Pune, 411037, Maharashtra. Note that PSF moved to YMCA building, 382 Rastapeth, Quartergate, Pune, in May 2007.

Photo of Car Paid for by PSF But Owned and Registered in Mr. Abraham's Name



105. Separately, Mr. Abraham purchased another car with unspent HDRN project funds after the UNDP-funded HDRN program had ended.⁸⁷ The OIG has not identified that Mr. Abraham used the car for purely business purposes. Mr. Abraham informed OIG investigators that he had exclusive use of the car, which he kept at his apartment in Pune, and that he purchased the vehicle without having sought approval from the PSF board.⁸⁸ Although this transaction did not necessarily involve Global Fund grant funds, it reveals a pattern of use of donor funds that is relevant to his intent in connection with the car he did purchase with GF monies. In addition, Global Fund funds may have also been used towards the HDRN purchase since between October 2008 and September 2009 PSF transferred US\$ 182,779 to HDRN. This amount was repaid in March 2010, but without interest. The interest lost to INP+ and PSF is approximately US\$ 21,222.⁸⁹

5. Purchase of Land Without Approval From the PSF Board

106. On 15 November 2008, PSF, represented by its president Mr Abraham, purchased on his own, a plot of land situated at Vele, Tai Wai, Dist. Satara. According to a former member of the PSF Board of Directors, the land was purchased without approval from the PSF's Board.⁹⁰ Indeed, Mr. Abraham only informed the PSF board of the purchase at a PSF board meeting held on 21 February 2009, three months after he commenced payments on the land from the PSF bank account.⁹¹

⁸⁷ KK Abraham Interview with OIG (25 February 2011). He informed OIG that he purchased a Chevrolet Aveo with unused HDRN funds after the project had finished.

⁸⁸ Ibid.

⁸⁹ If invested at a rate of 8% per annum.

⁹⁰ Witness made this allegation in email entitled: "Shocker Notice" on 21 March 2010 to the President of PSF KK Abraham.

107. In total, the forensic audit identified that between November 2008 and March 2009, PSF, at Mr. Abraham's direction, made payments of US\$ 72,888,⁹² relating to the purchase of this land. Furthermore, Mr. Madhukar Yadav, a former PSF board member and former INP+ Vice President, received a two per cent commission from PSF on the purchase price of the land totaling INR 30,500.⁹³

108. In his interview with OIG investigators, Mr. Abraham stated that he intended to build a hospital on the land. However, no construction on the hospital has been carried out to date and no material efforts have been made towards it.⁹⁴ The deed of sale is in the name of PSF; however, Mr. Abraham's signature also appears on the deed as representative of that organization.

⁹² INR 3.28 million

⁹³ PSF Cash Vouchers: #318 dated 11/2/2009 and #319 dated 11/2/2009

⁹⁴ Forensic audit, June 2011, Section 5.5.2

109. In addition, the purchase of the property does not appear consistent with PSF's stated objectives. The original MoU between INP+ and PSF, dated 1 December 2006, did not include reference to an objective to invest in land or build a hospital. Not until June 2010, several years after the land was purchased, was the MoU between INP+ and PSF revised so as to include an objective to build a care and support center for PLHA, and a training center for INP+. ⁹⁵

110. Despite the fact that the construction of a hospital did not appear in the original MoU, in an interview with the OIG, Mr. Abraham cited the hospital as the key reason for PSF's creation. Specifically, he stated that PSF was charged with this mission in light of the fact that INP+, as an advocacy organization, could not take on such activities as buying land and building a hospital. However, Mr. Abraham's statement is contradicted by the fact that INP+ purchased land in Alamathi Village in March 2005.

111. Similar to the land purchased by PSF, there has been no construction on the land owned by INP+ since its purchase. Mr. Abraham stated that "it is an investment for INP+" and that "INP+ is now approaching different donors and foundations for support in building on the property". ⁹⁶ On several occasions, OIG requested that Mr. Abraham produce documentation to support his statement that INP+ had approached donors. ⁹⁷ However, to date, he has not provided this information.

112. The investigation has revealed that the entire amount of funds used to purchase the land for PSF was from Global Fund grant monies. Specifically, a forensic review of Mr. Abraham's records identified a document entitled, "PSF Expenditures for Global Fund", created on 2 February 2011—one month prior to Mr. Abraham's interview with OIG, and approximately five years after the creation of PSF.

⁹⁵ Memorandum of Understanding U 306602 between INP+ and PSF, dated 1 June 2010 signed by President of INP+ Jahnabi Goswami and President of PSF, Mr.. K.K. Abraham.

⁹⁶ President of PSF, KK Abraham, Record of Conversation with the OIG, 24 July 2011.

⁹⁷ OIG Interview with Mr. Abraham (24 July 2011); OIG Letter to Mr. Abraham (2 August 2011).

Screenshot of “PSF Expenditures for Globle Fund” from Mr. Abraham’s Laptop (Amounts listed in INR)⁹⁸

Salary	366,000.00
Professional F	112,250.00
Travel	134,842.00
Misc	14,057.00
Office supply	131,354.00
Communicatio	33,421.00
Maintainance	55,975.00
Medical Aids	92,354.00
Bank Charges	181.00
Insurance	14,888.00
Furniture	18,508.00
Equipement	40,961.00
Welfare fund	192,621.00
Rent	202,248.00
Vehicle Mainta	950.00
Meeting Exp.	8,741.00
Computer	21,350.00
Land	3,280,585.00
Development	88,060.00
Total	4,809,346.00

113. This table lists a total of INR 4,809, 346, approximately US\$ 72,900, of expenditures paid on behalf of PSF with Global Fund grant funds. Notably, the table that appears in this document does not reference to what date this total refers. Given that this table does not offer an explanation of the time period covered, it is unclear as to what percentage of the total Global Fund funds expended by PSF is represented by the total amount of US\$72,900. In addition, the fact that the date of creation of this document was five years after INP+ commenced the transfers to PSF, and immediately preceding an OIG interview with Mr. Abraham, the reliability and authenticity of this document is questionable. Indeed, at the time of creation of this document in February 2011, Mr. Abraham had been advised that the OIG investigators were to come to interview him a month later.⁹⁹ Nevertheless, this document is important in that it constitutes an admission that the land purchased was paid for solely with Global Fund grant monies. Such an expenditure is in contravention of the grant agreement.

114. The fact that PSF has not even begun construction of a hospital on the land for a number of years after its purchase, as well as the fact that the construction of a hospital is not mentioned in PSF’s original MoU, calls into question the validity of Mr. Abraham’s stated purpose for the purchase of the land.

115. It is also significant to note that the first mention of the construction of the ‘Care and Support Centre’ on the land purchased in Pune in 2008, appears only in the 2009/2010 INP+ Annual Report.¹⁰⁰ There is no earlier mention of the purchase.

⁹⁸ Forensic review of Mr. Abraham’s laptop found this table entitled: “PSF Expenses for Globle Fund (2).xls” created on 12 February 2011.

⁹⁹ OIG email to Mr. Abraham et al (14 February 2011) (informing Mr. Abraham of the upcoming dates of OIG visit to PSF and INP+).

¹⁰⁰ INP+ Annual Report 2009/2010 at page 13.

Mr. KK Abraham explained in detail about the reasons behind the formation of Positive Support Fund (PSF). He stated that PSF was established with the aim for promoting sustainability and livelihood options for PLHIV across the country. He also expressed the long pending dream of INP+ in constructing a care and support centre exclusively for the PLHIV, their family members including children infected and affected by HIV. He also presented the plan approved for establishing the care home and training centre for the land purchased



in Pune. He answered to all the financial queries raised by the general body members and thus the minutes, annual and financial report for the period 2008-2009 was approved.

6. PSF Paid for Driving Lessons and Other Expenses for Non-Employees

116. In 2008, PSF made three payments totaling INR 3,300 to Classic Motors Training School for driving lessons of Rameshwar Thakar.¹⁰¹ Similarly, in November 2008, PSF made a payment totaling INR 420 to a Mr. Rakesh Kumar. This payment was stated as a refund for an optical bill.¹⁰² However, according to salary details from PSF, Messrs. Thakar and Kumar did not begin employment with PSF until February 2009. These payments were unrelated to any stated objective of PSF. More fundamentally, these payments are relevant not so much for the amounts in question, but as evidence of intent concerning the uses to which the funds were put, and to Mr. Abraham's purposes to use grant funds solely in further of grant program objectives or whether he considered such funds within his exclusive authority to use as he deemed appropriate.

E. RETALIATION AGAINST CRITICS AND WHISTLEBLOWERS

117. The OIG's investigation also found evidence of retaliation against individuals and organizations that alleged fraud and abuse on the part of the leadership of INP+ and PSF, and Mr. Abraham. Between September 2009 and February 2010, several emails were sent by two SLN board members, Mr. Manoj Pardeshi, President of Network of Maharashtra People Living with HIV/AIDS (NMP+) and former board member of INP+, and Mr. Naresh Yadav, secretary of Uttar Pradesh Network of People Living with HIV/AIDS (UPNP+), raising

¹⁰¹ PSF Payment Vouchers nos.17, 33, and 97

¹⁰² Cash voucher 200, dated 29 November 2008 for INR 420

issues regarding INP+ and PSF to the board members of INP+, PFI and members of the SLN's.¹⁰³

118. On 5 February 2010, Mr. Pardeshi, Mr. Yadav and others sent a letter to the Registrar of Societies in Chennai complaining about INP+, PSF and HDRN.¹⁰⁴ The letter raised concerns about "financial fraud" and the use of INP+'s funding to "amass wealth" for Mr. Abraham and Mr. Shah. The letter noted, accurately, the transfer of large amounts of funds from INP+ to PSF and HDRN for "capacity building and strengthening of the organization" were, in fact, not used for such purposes. It also mentioned the inherent conflict of interest in Mr. Abraham serving on the boards of INP+, PSF and HDRN, as well as that cars were purchased without board approval for the personal use of Mr. KK Abraham and Mr. RM Shah. Additionally, the letter raised concerns about the transfer of approximately INR 6,200,000 and alleged that family members of the Shahs received money from INP+, PSF and HDRN. Finally, the letter asserts that the questions regarding all of these issues were raised to Mr. Abraham and Ms. Goswami at the 13th Annual General Meeting but they refused to comment on these issues.¹⁰⁵

119. One week later, UPNP+ and NMP+ were terminated as SLN's by INP+.¹⁰⁶ INP+'s stated reasons for terminating UPNP+ and NMP+ was for misguiding the DLN's, mismanagement and misuse of funds, "the non-existence of a financial system" and violating the bylaws of INP+.¹⁰⁷ The conclusion that INP+ retaliated against UPNP+ and NMP+ is supported by the findings of the PR audit, which reviewed 9 SLN's for accounting problems under the Round 4 and Round 6 grants. The audit found that NMP+ and UPNP+ were terminated for accounting issues, while other networks with similar accounting issues continued as SLN's. One network, RNP+, had identical issues as UPNP+ and yet was not terminated as a SLN. NMP+, which had fewer accounting issues than RNP+ was terminated, whereas RNP+ was not. In addition, there were two other SLNs that had an equal amount of accounting issues as NMP+ and were not terminated as SLNs.¹⁰⁸ These facts are significant evidence of the true intent of the terminations.

120. Further, on 21 March 2010, a witness sent an email to Mr. Abraham asking for "clarification" regarding the finances of PSF, specifically: (i) the reason why no bylaws were shared with the board; (ii) an explanation for the large transfer of funds from PSF to HDRN; (iii) an explanation for a car purchased by PSF and the users of this vehicle; (iv) an explanation for PSF's purchase of land without board approval; and (v) a query as to the rationale for PSF's failure to share data during its 9 February 2010 board meeting regarding the provision of treatment and diagnosis for PLHA.

¹⁰³ The witness sent an email entitled: "Shocker Notice" on 21 March 2010 to the President of PSF KK Abraham.

¹⁰⁴ Letter dated 05 February 2010 to Registrar of Societies Chennai signed by Manoj Pardeshi, Naresh Yadav, Rajasaheb Pendhari, Rasik Bhuva and Geeta Chitroda.

¹⁰⁵ Ibid.

¹⁰⁶ Termination of Affiliation and Project (ACT Global Fund Round 4); General MoU of INP+ to NMP+ dated 13 February 2010 and Termination of Affiliation and Project (PACT the Global Fund Round 6); General MoU of INP+ to UPNP+ dated 13 February 2010.

¹⁰⁷ Termination of Affiliation and Project (ACT Global Fund Round 4); General MoU of INP+ to NMP+ dated 13 February 2010 and Termination of Affiliation and Project (PACT Global Fund Round 6); General MoU of INP+ to UPNP+ dated 13 February 2010.

¹⁰⁸ PR audit report, November 2010, section 3.2.24, p.17

121. One month later, the witness was removed from office by PSF's board, at the direction of Mr. Abraham.¹⁰⁹ The stated reason for removing the witness were: (i) the witness's email of 21 March 2010; (ii) the fact that it was "highly likely" that the witness was the source of "financial leakage of PSF" that was used to "create a malicious campaign against the president of PSF"; (iii) the potential decrease in the credibility of PSF if the witness were to remain on the board; (iv) the witness' past history of engaging in unethical and corrupt practices; and (v) the witness' engagement in actions to deliberately tarnish the image of PSF and create distrust against board members and other stakeholders.

122. Further, the OIG found that INP+ contracted private investigators to find derogatory information on a perceived critic, Mr. Pardeshi. As discussed above, NMP+ was terminated as an SLN on 13 Feb 2010 in the wake of a letter from Mr. Pardeshi (then president of NMP+ and former board member of INP+) that raised allegations of fraud and corruption at INP+ and PSF, particularly by Messrs. Abraham and MK Shah.

123. Around the same time that Mr. Pardeshi issued this letter, the Globe Detective Agency was contracted by INP+ (Mr. Abraham) to undertake two investigations of him. Globe Detective Agency submitted two reports to INP+, dated 27 February 2010 and 16 March 2010.¹¹⁰ Additionally, INP+ contracted a separate individual, Mr. Pranab K. Sharma, to undertake inquiries into Mr. Pardeshi. Mr. Sharma's report was addressed to INP+ President Jahnabi Goswami and indicated that he was acting on Ms. Goswami's instructions.¹¹¹ The OIG has serious concerns that these "investigations" were paid for by donor funds.

F. CONFLICT OF INTEREST

124. The INP+ leadership and that of PSF had significant overlap and commonality. The CCM auditors deemed PSF "'a related entity' to INP+, as it is controlled by the same office bearers as INP+."¹¹² During the relevant grant periods, four individuals were on the boards of both INP+ and PSF: Mr. Abraham, Mr. Ramachander, Ms. Goswami and Ms. Kottagiri, and the first three individuals were senior officers. Specifically, their roles were as follows:

a) Mr. K.K. Abraham:

- President, PSF (2006-present)
- General Secretary of INP+ (2005-2007/2009-2010)
- President, INP+ (2007-2009)

b) Mr. Elango Ramachander:

- Deputy President/Secretary, PSF (2006-2010)

¹⁰⁹ Termination letter dated 21 April 2010 from PSF Board.

¹¹⁰ Letter from P G John, Globe Detective Agency to Santosh P. Iype, dated 2 March 2010 Ref # MDS/D/2695/2009; Letter from P G John Globe Detective Agency to Santosh P. Iype, dated 16 March 2010, Ref #MDS/D/2839/2009.

¹¹¹ Letter (undated) from Pranab K. Sharma to Jahnabi Gowami, President, INP+. The exact date of this inquiry could not be ascertained.

¹¹² The PR audit firm's audit report at 5.2.10.

- President, INP+(2006-2007)
- Treasurer, INP+ (2005-2006)

c) Ms. Jahnabhi Goswami:

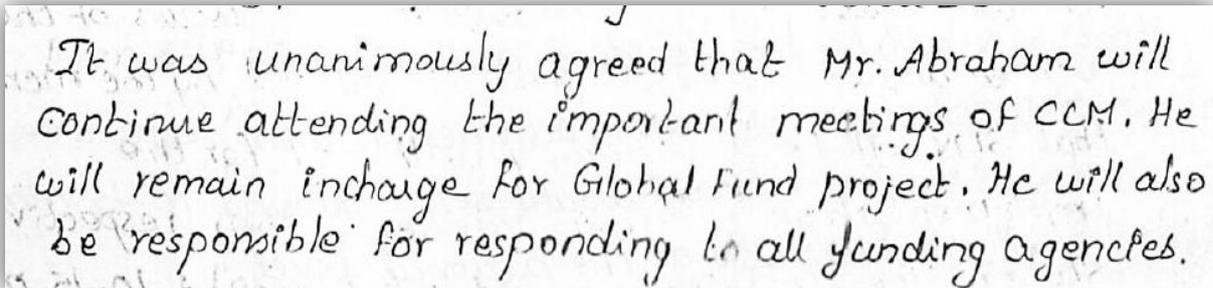
- Treasurer, PSF (2006-present),
- Treasurer, INP+ (2005-2007) General Secretary (2007-2009),
- President, INP+ (2009-2010)

d) Ms. Renuka Kottagiri:

- Board Member, PSF (2006-present)
- Treasurer, INP+ (2007-2009)

125. PSF board members were not elected to the board, rather they were appointed to the board by Mr. Abraham, for a five-year period¹¹³.

126. When Mr. Abraham stepped down as President of INP+ and assumed the role of General Secretary of INP+ in October 2006, he remained in control of all Global Fund grant projects, as demonstrated by the INP+ Board Minutes below:¹¹⁴



It was unanimously agreed that Mr. Abraham will continue attending the important meetings of CCM. He will remain incharge for Global Fund project. He will also be responsible for responding to all funding agencies.

127. Mr. Abraham became president of PSF upon its creation in December of 2006. Thus, Mr. Abraham maintained leadership roles in both organizations at the time when INP+ was transferring Global fund grant monies to PSF. In other words, Mr. Abraham transferred funds for Global Fund projects from INP+ to PSF while he was in charge PSF, where he served as president.

128. Article 19 of the Agreement between PFI and INP+ Conflicts of Interest; Anti-Corruption states:

No corruption. The Sub Recipient shall not, and shall ensure that no person affiliated with the Sub Recipient: (i) Participates in the selection, award or administration of a contract, grant or other benefit or transaction funded by the Grant, in which the person, members of the person's immediate family or his or her business partners, or organizations controlled substantially involving such person, has or have a financial interest.

129. As set forth above, Mr. Abraham received payments from PSF despite his assertions that he had no financial interest in the organization. These payments to Mr.

¹¹³ PSF Memorandum of Association.

¹¹⁴ INP+ Board Minutes (16 October 2006).

Abraham, and the fact that he maintained dual roles in both INP+ and PSF, implicates Article 19, since Mr. Abraham - and the other directors -- held a financial interest in the award of funds from INP+ to PSF. PSF received a “benefit” under the Grant because a majority of funding transferred to PSF was originally from Global Fund sub-grants to INP+.

130. Mr. Abraham stated that he was aware of the conflict of interest and that he was able to “mitigate” the conflict by making sure he “stayed away” from the financial transactions.¹¹⁵ Given that Mr. Abraham is a signatory to all of the accounts for both INP+ and PSF, his statement does not appear credible.

131. He also denied being a “beneficiary” of PSF. Yet this claim is belied by the evidence. Mr. Abraham was deeply involved in the transactions that transferred funds between INP+ and PSF.

V. OIG’S EVALUATION OF THE SUBJECT’S RESPONSE

A. SUMMARY OF THE RESPONSE

132. In compliance with its due process standards, OIG issued a draft copy of the report to INP+ and Mr. Abraham on 27 August 2010 in order to allow the subjects an opportunity to respond to the report findings.

133. In his responses, Mr. Abraham (on behalf of INP+) asserts the following:¹¹⁶

- a) INP+ never transferred Global Fund funds to PSF; as such, INP+ never concealed transfers;
- b) INP+ solely used Global Fund grant monies to fund program related activities; which is demonstrated by the fact that PFI and LFA never raised an objection to quarterly and annual reports submitted by INP+;
- c) Transfers to PSF via third parties at the direction of Mr. Abraham were merely donations, and thus outside the scope of OIG’s investigation; and
- d) Renovations and rent paid on the Salisbury apartment, PSF salaries for Mr. MK Shah and Mr. RM Shah, driving lessons for a non-employee, the purchase of land, and a car for Mr. Abraham were not paid for with Global Fund grant monies, and therefore are outside the purview of OIG’s investigation.
- e) Mr. Manoj Pardeshi was dismissed for valid reasons, including violations of INP+ bylaws requiring removal upon conviction of any criminal offense.
- f) An OIG investigator admitted that there are two schools of thought regarding overhead/management fees.
- g) The forensics audit report commissioned by the OIG was flawed, including that Section 5.1.2 was “completely baseless and not on actual facts but based on only assumptions and interpretations convenient to the OIG”.

¹¹⁵ President of PSF, KK Abraham, Record of Conversation with OIG, 21 February 2011, lines 308-322.

¹¹⁶ “Interim Comments to the OIG Report”, INP+, 15 September 2011; “Comments to the draft OIG report”, INP+, 26 September 2011.

134. INP+ also requests that the OIG not “expose any internal confidential documents of INP+ and PSF such as minutes of the meeting, bank statements, vouchers etc which can affect the organization’s privacy.”

B. OIG’S EVALUATION

135. It is significant to note that INP+ and Mr. Abraham do not address the evidence presented that INP+ transferred Global Fund grant funds to PSF. Notably, their contention that no Global Fund monies were routed to PSF is in contrast with Mr. Abraham’s own representations that he made at other times. These representations include statements by Mr. Abraham to the OIG investigators on 21 February 2011 wherein Mr. Abraham conceded that approximately US\$ 500,000 of Global Fund grant funds were transferred to PSF. In addition, as noted above, the OIG identified a document in Mr. Abraham’s possession entitled ‘*PSF Expenditures for Globle (sic) Fund*’. Lastly, both the CCM audit and the OIG forensic review conclude, unequivocally, that Global Fund grant money was involved in the transfer of funds from INP+ to PSF.

136. Second, the assertion by Mr. Abraham and INP+ that all Global Fund grant monies were used for program related activities is contrary to the evidence adduced. As this report shows, INP+ transferred Global Fund program funds to PSF, which performed no program-related services. PSF’s only service was the payment of medical expenses and treatment between 20 and 25 PLHIV persons, all of who were board members of PSF or related sub-SRs. The other significant expense was the purchase of land ostensibly for the construction of a hospital, which remains unused. Neither of these activities is related to the Global Fund ACT or PACT programs. Mr. Abraham and INP+ contend in their Reply that the fact that INP+ only used Global Fund grant monies to fund program related activities is evidenced by the fact that PFI and the LFA never raised an objection to INP+ use of funds in INP+’s quarterly and annual reports. However, as detailed above, INP+ did not report any transfer of funds to PSF until three years after these transfers had commenced, after which time, it underreported the total amount transferred to PSF. Thus, the fact that PFI never raised an objection for this use of Global Fund grant funds does not present a defense given the fact that there is no evidence that PFI was aware of these transfers to PSF and the efforts of INP+ to conceal them.

137. Third, the transfers of funds to PSF via third parties were not “merely donations,” as asserted by INP+ and Mr. Abraham, and therefore are in the purview of the OIG’s investigation. As set forth above, forensic evidence of the two transfers identified by the OIG provides corroboration of the whistle-blower’s description of a scheme to disguise transfers to PSF as cash ‘donations’. As set forth above, the OIG has identified substantive and credible evidence of an organized effort by Mr. Abraham to conceal the transfer of funds from INP+ to PSF by means of withdrawals and deposits disguised as ‘donations’ to PSF bank accounts.

138. Fourth, the assertion made by Mr. Abraham and INP+ that a number of expenditures cited in the report—namely, renovations and rent paid on the Salisbury apartment, driving lessons for a non-employee PSF salaries for Mr. MK Shah and Mr. RM Shah, the purchase of land, and a car for Mr. Abraham—were not paid for with Global Fund grant monies does not withstand close scrutiny. As set forth above in the discussion of

loss, it is clear that Global Fund resources disbursed to the Principal Recipient, PFI, were transferred to INP+ and co-mingled with other donor funds. The Global Fund monies comprised the vast majority of the INP+ funds placed in the co-mingled account. The funds transferred to PSF were all made from INP+'s co-mingled account, and transferred directly to PSF. Therefore, there is credible and substantive evidence that Global Fund monies were transferred to PSF. The most conservative method of calculating the amount of GF funds in the possession of PSF is a straight percentage calculation. In other words, the percentage of Global Fund resources that were transferred to PSF is comprised of the percentage in the INP+ account. In turn, this same percentage calculation would apply to any expenditures of PSF.

139. Fifth, with respect to Mr. Pardeshi, there is no evidence that he has been convicted of any criminal offense, as implied by INP+. Further, the OIG notes that at the 47th meeting of the India CCM, on 16 August 2011, Mr. Pardesi was also deemed to have sufficient credibility to be appointed to the CCM's HIV/AIDS committee.¹¹⁷

140. Sixth, regarding INP+'s assertion that OIG acknowledged the existence of two schools of thought on overhead/management fees, the OIG indeed stated that two schools of thought exist: one school of thought (INP+'s) is that overhead/managements costs can be used in any manner the organization wishes; the other school of thought (the Global Fund's) is that overhead fees must be used exclusively for program-related purposes. Only the latter school of thought is consistent with the Grant Agreement and Sub-Grant Agreements.

141. Seventh, regarding the forensic audit report, the OIG contracted a reputable and independent forensic audit firm in support of its investigation, which reviewed data provided by INP+ and PSF and also analyzed the identified bank accounts of INP+ and PSF. INP+'s only specific criticism relates to the table summarizing project funds received by INP+ and amount transferred to PSF, notably that, "in the first two years of the Round 4 implementation, INP+ had not charged any overhead/management cost separately." INP+'s assertion is false. The Round 4 (Phase 1) Grant Agreements (Schedule C) between PFI and INP+ clearly show overheads being charged to various budgets.

142. Regarding INP+'s request for non-disclosure of their documentation, the OIG notes that the Sub-Grant Agreement for Round 4 (Phase 1) provides that: "PFI and Global Fund will have exclusive copyright of all information/data, technical or otherwise, that emerges or is generated from this project."¹¹⁸ Separately, Article 13(f) of the Grant Agreements states:

The Global Fund reserves the right, on its own or through an agent (utilizing Grant funds or other resources available for this purpose) to perform the audits required under this Agreement and/or, to conduct a financial review, forensic audit or evaluation, or to take any other action that it deems necessary to ensure the accountability of the Principal Recipient and Sub-Recipients for Grant funds and to monitor compliance by the Principal Recipient with the terms of this Agreement.

¹¹⁷ Minutes of the 47th India CCM meeting on 16 August 2011.

¹¹⁸ Round 4 (Phase 1) Sub-Grant Agreement between PFI and INP+, Article 5.2.7.

As evidenced by the policy on publication of OIG investigative reports, the Global Fund has determined that publication of reports is necessary to ensure accountability of PRs and SRs for Grant funds. Consistent with this objective of ensuring accountability, and with its obligation to make findings based on “credible and substantive evidence,” this report contains excerpts from INP+ and PSF+ records (both hardcopy and electronic) that constitute evidence of fraud, abuse and mismanagement of program funds.

C. THE CREDIBILITY OF MR. ABRAHAM’S ASSERTIONS

143. The following facts are relevant to an assessment of the merit and credibility of Mr. Abraham’s claims:

- a) Mr. Abraham made contradictory statements to the OIG: In his Reply to OIG’s Interim Report, Mr. Abraham contended that INP+ had never transferred Global Fund grant funds to PSF. However, in his 21 February 2011 interview with the OIG, he asserted that 50% of the amount transferred to PSF constituted Global Fund funds.¹¹⁹ These are inconsistent statements.
- b) The OIG identified forensic evidence to corroborate allegations by a whistleblower that Mr. Abraham directed individuals to disguise contributions to PSF by routing them through third party individuals’ accounts in the form of fictitious cash “donations”. Yet, Mr. Abraham denies this allegation in his Reply to the Interim Report, without presenting any contradictory evidence.
- c) Mr. Abraham asserted that a central purpose for the creation of PSF was to construct a hospital. However, this objective does not appear in the organization’s original MoU. Mr. Abraham explained that PSF was charged with the construction of the hospital and purchase of land since INP+, as an advocacy organization, could not take on such activities as buying land and building a hospital. However, INP+ purchased land in Alamathi Village in March 2005 when Mr. Abraham was General Secretary of INP+. Thus, this prior purchase of land by INP+ casts doubt on the credibility of this assertion.
- d) With regard to conflict of interest issues, Mr. Abraham stated that he was aware of this issue and that he was able to “mitigate” the conflict by making sure he “stayed away” from the financial transactions.¹²⁰ Further, Mr. Abraham denied that he was a “beneficiary” of PSF. However, Mr. Abraham’s assertion is belied by the fact that he is a signatory to all bank accounts for both INP+ and PSF, and therefore was intimately involved with financial transactions. Moreover, as detailed above, Mr. Abraham received personal, non-business related benefits from PSF, such as the rent for his flat and a vehicle for his personal use.

¹¹⁹ KK Abraham, interview with OIG, 23 February 2011, lines 702-708.

¹²⁰ President of PSF, KK Abraham, Record of Conversation with OIG, 21 February 2011, lines 308-322.

VI. FIDUCIARY CONTROL WEAKNESSES

A. CO-MINGLED AND MULTIPLE ACCOUNTS

144. INP+ did not maintain a separate Global Fund program bank account, and co-mingled all of its donor funds in one account. In addition, the investigation has revealed that Global Fund grant funds from multiple grants were held in the same bank accounts, and transfers were made between these accounts. The comingling of funds from multiple donors, and multiple grants from a single donor, significantly increased the risk of misappropriation and abuse by clouding, and making it difficult or impossible to track the path of project funds.

145. Such risks materialized in this case. As noted above, US\$ 1.29 million was transferred from INP+ to PSF. In light of the fact that there is no evidence that PSF provided services in furtherance of Global Fund's grants, a finding may be made that credible and substantive evidence exists that Global Fund grant funds were misappropriated. However, because INP+ comingled funds from the Global Fund with funds from other donors, it is impossible to identify with precise certainty the portion of the US\$ 1.29 million that constituted Global Fund funds. For purposes of calculating loss, OIG used a conservative approach, but it is possible that the actual number was significantly greater.

146. To enhance transparency and accountability in the future, future grant agreements should require dedicated bank accounts for each grant.

B. OVERHEADS

147. During its negotiations with INP+ over sub-grant agreements, the PR did not identify indicators of double-counting of overhead fees in the INP+'s budgets. The Global Fund's Round 4 and Round 6 proposal guidelines state that "overhead costs" should include costs such as office rent and internal communication costs.¹²¹ The INP+'s budgets for Round 4 (Phase 1 and 2) and Round 6 (Phase 1) list certain itemized overhead expenses, such as rent and communications, under the heading "planning and administration" despite a separate expense heading "overheads" (set at a fixed percentage of 8%). However, the Round 6 (Phase 2) budget listed the same expenditures under "Overheads", while also listing a separate fixed-percentage "overheads" expense.¹²² The existence of "overhead" expenses in multiple budget headings should have alerted the PR to the risk of double-counting and led them to request a revised budget from the SR.

148. Similarly, the LFA should have identified the above risk of double-counting during its initial review of each budget. The LFA also did not review the INP+'s actual utilization of the 8% overhead budget fees. In the future, the obligation to review overheads should be made an explicit part of the LFA's terms of reference.

¹²¹ Guidelines for Proposals, Fourth Call for Proposals, Geneva, 10 January 2004; Guidelines for Proposals, Sixth Call for Proposals, Geneva, 5 May 2006.

¹²² "Expenditure Heads" in Round 6, Phase 2 Grant Agreement between PFI and INP+.

VII. LOSS TO THE GLOBAL FUND

A. THE GLOBAL FUND'S RIGHT TO REIMBURSEMENTS

149. Article 27 of the Global Fund's Grant Agreements with PFI establishes the Global Fund's right to demand repayment from PFI in certain circumstances:

*Notwithstanding the availability or exercise of any other remedies under this Agreement, the Global Fund may require the Principal Recipient to immediately refund to the Global Fund any disbursement of the Grant funds in the currency in which it was disbursed in any of the following circumstances: (i) this Agreement has been terminated or suspended; (ii) **there has been a breach by the Principal Recipient of any provision of this Agreement**; (iii) the Global Fund has disbursed an amount to the Principal Recipient in error; or (iv) the Principal Recipient has made a material misrepresentation with respect to any matter related to this Agreement.*¹²³

150. Thus, the Global Fund's has a contractual right to seek reimbursement from PFI for breaches of the Grant Agreements.

151. Article 4 of the Grant Agreements between the Global Fund and PFI state that the "Principal Recipient may only use Grant funds for program activities which occur during the Program Term or as otherwise agreed in writing by the Global Fund." Furthermore, Article 14 requires that, as a condition of providing grant funds to sub-recipients, the Principal Recipient:

*enter into a grant agreement with each Sub-recipient creating obligations of the Sub-recipient to the Principal Recipient that are generally equivalent to those of the Principal Recipient under this Agreement, and which are designed to facilitate the compliance of the Principal Recipient with the terms of this Agreement. Such obligations shall include, but not be limited to, a requirement that the Sub-recipient employ all Grant funds solely for Program purposes . . .*¹²⁴

152. Viewed together, these provisions demonstrate an intent of the parties to the Grant Agreements to require PFI not only to use grant funds exclusively for program activities itself but also to ensure that that INP+ does the same. Thus, a failure by INP+ to use grant funds exclusively for program activities represents a breach of the Grant Agreements by PFI.

153. As demonstrated above, none of the Global Fund grant funds transferred to PSF were used for Global Fund program purposes. Rather, they were diverted to an entity and used for the purposes of its creator. There is no credible evidence that this entity, PSF,

¹²³ Article 27 of the Standard Terms and Conditions of the Amended and Restated Program Grant Agreement between the Global Fund and PFI, IDA-405-G05-H (Round 4); Article 27 of the Stand Terms and Conditions of the Program Grant Agreement between the Global Fund and PFI, IDA-607-G10-H (Round 6).

¹²⁴ Article 14 of the Standard Terms and Conditions of the Amended and Restated Program Grant Agreement between the Global Fund and PFI, IDA-405-G05-H (Round 4); Article 14 of the Stand Terms and Conditions of the Program Grant Agreement between the Global Fund and PFI, IDA-607-G10-H (Round 6).

provided any program related services and satisfied any of its stated objectives. Rather, the evidence adduced demonstrates that PSF was controlled by a single individual, KK Abraham, who used it as a means to achieve financial benefits and advance his personal interests and those of his close associates. As a result, these transfers constituted breaches of Articles 4 and 14 of the Grant Agreements. These breaches, in turn, trigger the Global Fund's contractual right to seek reimbursement.¹²⁵

154. Apart from having breached the Grant Agreements by failing to ensure that grant funds were used for program purposes, PFI may have also breached the Grant Agreements by violating host country law. Article 6(d) of the Grant Agreements requires PFI to "ensure that each of its Sub-recipients shall . . . comply with Host Country law and other applicable law . . . when carrying out Program activities."¹²⁶ It should be emphasized that a violation of Indian law is not required to justify reimbursement. Nevertheless, this may provide another vehicle with which the Global Fund may be able to seek reimbursement.

155. The following paragraphs describe the OIG's tentative observations regarding INP+'s and KK Abraham's potential liability under Indian law.¹²⁷

156. Section 4(3) India's Foreign Contribution (Regulation) Act, 1976 states:

No person receiving any currency from a foreign source on behalf of [a FCRA registered entity (such as INP+)] shall deliver such currency--

- (i) to any association or organization other than the association for which it was received; or*
- (ii) to any other person, if he knows or has reasons to believe that such other person intends or is likely to, deliver the same to an association other than the one for which the same was received.*

157. As established above, according to the Grant Agreements, Global Fund grant funds transferred from PFI to INP+ were to be used exclusively for program purposes. As such, INP+'s transfer of these funds to PSF (particularly given the concealed manner in which they were made), would appear to be a "delivery" of foreign currency to an organization other than the association for which it was received, in violation of Section

¹²⁵ Fortunately for PFI, it has its own contractual right vis-à-vis INP+ to seek a recovery of the grant funds not used for program purposes. See Article 3 of the Standard Terms and Conditions of the Sub-Grant Agreement between PFI and INP+, 12 June 2006 (Round 4); Article 3 of the Standard Terms and Conditions of the Sub-Grant Agreement between PFI and INP+, 21 June 2007 (Round 6). Based on this provision, it may itself seek a reimbursement from INP+ for the Global Fund funds transferred to PSF. Though, of course, PFI's obligation to repay the Global Fund is not conditional on INP+'s repayment to PFI, since the matters are based on independent contractual obligations.

¹²⁶ Article 6(d) of the Standard Terms and Conditions of the Amended and Restated Program Grant Agreement between the Global Fund and PFI, IDA-405-G05-H (Round 4); Article 6(d) of the Standard Terms and Conditions of the Program Grant Agreement between the Global Fund and PFI, IDA-607-G10-H (Round 6).

¹²⁷ Given time and resource constraints, and the fact that a violation of Indian law was not necessary to show that the Global Fund had a right to reimbursement, the OIG did not reach definitive conclusions regarding INP+'s and KK Abraham's potential liability under Indian law. The discussion that follows presents an overview of issues that may deserve closer attention, including by Indian law enforcement authorities.

4(3)(i) of the FCRA. Additionally, PFI specifically transferred to INP+ over US\$ 600,000 that, per INP+'s budgets, were claimed to represent the overhead fees of sub-SRs (i.e., the DLNs and SLNs). These amounts were not transferred onward to the sub-SRs—indeed, those entities were not notified of the management fee charged on their budgets— which were instead transferred to PSF. The transfer to PSF of these management fees that were intended for sub-SRs also appears to be a “delivery” of foreign currency to an association or organization other than the association for which it was received, in violation of Section 4(3)(i) of the FCRA. Aside from the FCRA, there are also Indian criminal laws that INP+ and KK Abraham potentially violated in transferring funds to PSF, including prohibitions against fraud¹²⁸ (implicated by INP+'s scheme to conceal the transfers) and misappropriation¹²⁹ (implicated by KK Abraham's use of INP+ and PSF funds for personal gain).

B. LOSS CALCULATION

158. As noted above, the OIG, through financial forensic analysis, has identified that US\$ 1.29 million of funds were transferred from INP+ to PSF between the 2005 and 2010 fiscal years. Tracing the precise portion of the funds that represent Global Fund sources has been made impossible by INP+'s co-mingling of funds from multiple donors in the same bank accounts. Thus, other means of calculating loss are employed.

159. An alternative approach to calculating loss rests on using the comparative percentages of Global Fund resources in the various accounts from which transfers were made. In this regard, INP+ received US\$ 16.09 million from all donors, of which US\$ 10.88 million, or approximately 68%, was received from the Global Fund. Attributing this percentage to the amounts transferred to PSF, it can be concluded that at a minimum US\$ 872,000 of Global Fund funds were transferred to PSF in violation of the Grant Agreements. Absent contrary evidence from INP+, and given the practice in some national jurisdictions to view the entirety of comingled funds as loss if the comingling “facilitated” the underlying offense, this approach represents a conservative calculation of the amount of loss of Global Fund funds.

160. Further, this calculation can be corroborated and refined by analyzing the amounts that INP+ should have transferred to the local networks, but did not. In this regard, by comparing grant funds received on behalf of Sub-Sub-Recipients (Sub-SRs) with the amounts actually disbursed to those Sub-SRs, a difference is identified. More specifically, for Round 4 (Phase I and II) and Round 6 (Phase I) DLNs, SLNs, TCCs, and PLCs received US\$ 1,284,166 less than the amount INP+ claimed on behalf of these entities.

161. Thus, the funds withheld from the Sub-SRs in Round 4 and part of Round 6 equals almost exactly the same amount of funds transferred by INP+ to PSF (US\$ 1.29 million).

¹²⁸ Indian Penal Code of 1860 (as Amended), Section 424, prohibiting “Dishonest or Fraudulent Removal or Concealment of Property”.

¹²⁹ Indian Penal Code of 1860 (as Amended), Section 403, prohibiting “Dishonest Misappropriation of Property”.

162. Separately, the failure by INP+ to transfer the funds to its Sub-PRs is a violation of the Grant and Sub-Agreements. INP+ deprived the Sub-SRs (which provided important ACT and PACT-related services) of funds earmarked for their use and used at least part of it to fund an organization, PSF, which provided little to no program-related services. Absent documentation of appropriate program-related use of this withheld funding, the total constitutes a loss to the Global Fund. This loss should be considered *additional to* the US\$ 872,000 loss described above.

C. REIMBURSEMENT TO DATE AND OIG DISCLOSURES TO THE SECRETARIAT

163. In March 2011, through a Memorandum to the then Interim Director of Country Programs and various meetings with Secretariat officials, the OIG disclosed the evidence that it had identified of misappropriation, and reached similar conclusions to those set forth herein.¹³⁰ The Memorandum identified the losses, the responsible parties, and described the scheme.¹³¹ Further, in the Memorandum and orally, the OIG identified the amount of the losses, the basis for the conclusions, and represented that it had located certain assets of the responsible parties in various accounts and other financial institution arrangements, all under the control of Mr. Abraham. The OIG identified approximately US\$ 835,000 in funds that were being held in these accounts that were available to be repatriated.¹³² The OIG recommended that the Secretariat take immediate action to recover all of these amounts.¹³³ To date, despite the repeated disclosures and requests to achieve restitution, the OIG has been informed that approximately just US\$ 355,555 has been returned by PSF,¹³⁴ excluding the balance. The balance has not been returned, or sought to be returned. Such a delay poses risks to the ability to effect full restitution of misappropriated sums.

164. The Secretariat often requests that the OIG make immediate disclosures of investigation results so as to assist in proper grant management. This case is an example where the OIG made such advanced disclosures for this purpose. Despite timely disclosure of investigation results more than six months ago, full action has not yet been taken to recover all misappropriated sums, remove culpable participants in the scheme, and institute proper safeguards and controls. All misappropriated sums have not been returned, and responsible parties still maintain significant positions in the relevant entities. The failure to make recoveries on a timely basis risks the ability to recover them.

165. This case presents another example of the need for competent external audits of the significant sub recipients, and that LFAs and PRs exercise greater due diligence and oversight of SR activities. The actions, and transactions, that occurred here with Global Fund resources were prolonged.

¹³⁰ Confidential memorandum dated 10 March 2010 from the OIG to Jonathan Brown, Director, Country Programs.

¹³¹ OIG met with Country Programs on these dates:

¹³² Forensic audit report, June 2011, table in section 5.4.3.

¹³³ Recommendations included in a 10 March 2010 memorandum to Jonathan Brown, Director, Country Programs.

¹³⁴ Letter dated 27 June 2011 from Andreas Tamberg, Fund Portfolio Manager, South and West Asia, Ref: CP/SWA/092/2011/AT/ds

VIII. CONCLUSION

166. The investigation has determined that Board members of INP+, including Mr KK Abraham, and others known and unknown, transferred a total of US\$ 1.29 million to PSF, the vast majority of the funds, not less than US\$ 872,000, constituting grant fund disbursements from the Global Fund. The OIG's determination that the Global Fund suffered a loss conservatively calculated at US\$ 872,000 is based on the following: (i) PSF failed to provide any grant-related services; (ii) the transfer of funds between INP+ and PSF was made by officials of these entities that suffered from a conflict of interest; (iii) transfers were made in violation of the agreements between the PR and SR and the original grant agreement; and (iv) funds were misappropriated.

167. The OIG found instances of fraud and abuse within INP+ and PSF. First, principals of INP+ engaged in an effort to disguise transfers to PSF, an entity in which they also had interests and operational roles. Directed contributions to PSF were either not reported at all, or underreported, in INP+'s annual reports. Also, INP+, through the principals identified herein, executed a scheme to route funds to PSF via fictitious "donations" from its officers and other private individuals.

168. Second, the OIG found that PSF inappropriately paid for utilities and other costs related to an apartment owned and occupied by the general secretary of INP+ and president of PSF, KK Abraham, and his close associate and PSF consultant, MK Shah. Third, the OIG found that compensation paid to certain staff members (who the independent audit had identified as unqualified and overcompensated) was underreported to the OIG. Moreover, Mr. Abraham, who claimed that he was not a beneficiary of PSF, actually received bank deposits from PSF. Fourth, the OIG found that PSF provided few if any services since its inception. Mr. Abraham failed to present any evidence that PSF met any of the nine objectives stated in its Memorandum of Association. Fifth, there were significant overlaps between INP+'s and PSF's leadership. The principals of INP+ who created PSF also serve as Board members and operational officers of PSF. Therefore, in turn, the same persons that were representatives of the recipient organization effectuated the transfers to PSF. These circumstances present a conflict of interest and self-dealing, to the detriment of the programs and the patients and beneficiaries the programs are meant to serve. These circumstances are also contrary to the principles of transparency.

169. Finally, credible and substantive evidence was identified that INP+ retaliated against whistleblowers and other critics of PSF by disaffiliating two SLNs and removing a board member from office after they raised concerns about the function and funding of PSF.

A. MR. ABRAHAM

170. The OIG finds that there is credible and substantive evidence that Mr. Abraham engaged in a scheme to divert grant proceeds to a shell corporation that he controlled, managed and supervised, through which he then used the funds unilaterally, and at times, for his own use and benefit. Such personal uses included upgrades and improvements on his residence, the purchase and use of a car, rental payments on his personal residence,

and the purchase of a plot of land for which there is no programmatic purpose. These determinations are based on the evidence that: a) as a principal of INP+ Mr. Abraham was instrumental in authorizing the transfer of Global Fund grant monies to PSF, entities in which he maintained managerial and decision making roles, and which he controlled; b) caused the transfer of Global Fund and other donor funds from one entity to the other in a manner that lacked transparency; c) then committed PSF expenditures for purposes and projects had little to no relation to objectives set forth in its mission statement and often personally benefitted Mr. Abraham and his associates; and d) concealed transfers of grant funds to the shell corporation, PSF, disguised as “donations”.

171. In his roles as both President and General Secretary of INP+, Mr. Abraham held a fiduciary duty to ensure that Global Fund grant funds were used for the proper purposes intended, and in furtherance of approved grant objectives. Rather than safeguard these funds and ensure they were expended appropriately, Mr. Abraham compromised this duty in favour of authorizing transfers to PSF without full knowledge and approval of the Principal Recipient, the Global Fund and interested parties, and in non-transparent manner. The funds were then used for purposes that had little to no connection to the ACT or PACT projects, but rather were effected for his personal benefit or that of his associates, or for the purpose of covering for expenses that they should have borne personally.

172. The OIG concludes that credible and substantive evidence exists that Mr. Abraham, through his position as president of INP+, used PSF as a mechanism by which to convert Global Fund funds for his purposes, for uses to which he personally and solely approved, and in some cases for his own personal enrichment. As such, Mr. Abraham misappropriated Global Fund and other donor grant resources.

B. INP+

173. The OIG finds that the management by INP+ of the funds entrusted to it constituted a failure to perform in accordance with its grant agreement with PFI, as well as abusive, unethical, and unprofessional conduct, submission of false information and fraud. Specifically, OIG concluded that INP+ mismanaged Global Fund grant monies, in that it: (i) failed to adhere to the terms and conditions of its agreement with PFI; (ii) made material omissions and misleading representations in its Annual Reports and to auditors regarding transfer to PSF; (iii) failed to secure PFI's permission to transfer Global Fund grant funds to PSF; and (iv) failed to monitor the activities of PSF and to ensure proper and adequate financial reporting of this organization.

174. Given that INP+ omitted relevant information with regard to transfers to PSF in successive annual reports over multiple years and failed not only to obtain, but to ever seek, consent from PFI regarding these transfers, these omissions cannot be seen as merely acts of negligence. Rather, these omissions constitute an intentional effort by INP+ to conceal the fact that grant monies were transferred to PSF.

175. It should also be noted that most jurisdictions attribute *mens rea* to a corporation *via* its employees, directors or shareholders, as they are the corporation's agents. Since Mr. Abraham was the president of INP+ both when PSF was created and when

monies were transferred to it with the Board's consent, he is an agent of INP+ and was acting on its behalf. As such, INP+ is also responsible for misappropriation of Global Fund grant resources.

176. Nevertheless, it is important to note that the recommendations contained in the Report allow for the continuation of INP+ as a sub-recipient of Global Fund grant funds on the condition that it immediately remove Mr. Abraham from any affiliation with the Organization. Thus, whereas OIG finds that INP+ was culpable in the past, it presents no such finding with regard to the organization in its current formation, with the exception of the requirement to disaffiliate Mr. Abraham.

C. PFI - THE PRINCIPAL RECIPIENT

177. During the course of the investigation, the Principal Recipient, with the Secretariat's consent, initiated another audit of INP+, to purportedly:

- a) Determine the total amount received as overhead/management fee from PFI during R4 and R6 period and further determine how much money was spent on overhead costs/management cost;
- b) Verify all the expenses made out of management fees/overhead cost;
- c) Determine unspent amount with INP+ and the bank accounts where unspent overhead amount is held as on date;
- d) Verify and quantify the amount transferred to PSF from all the bank accounts of INP+ and identify amounts transferred that can be sourced to the Global Fund, and;
- e) Identify and quantify the amount spent by INP+ in violation of grant agreement with PFI.

178. The audit is unnecessary as the OIG has already pursued all of these issues, and the Principal Recipient and the Secretariat are fully aware of this fact. The PR should reimburse the Global Fund for any grant funds expended on this exercise.

179. In connection with its fiduciary obligations under the agreement and the Global Fund model, the OIG finds that the PFI did not adequately fulfill its oversight responsibilities of the sub-recipient, and especially, did not take appropriate action when these deficiencies and allegations were first identified, and continues to refrain from acting responsibly. The OIG finds it particularly troubling that PFI has not pursued the reimbursement of the grant funds that continue to remain in the possession of PSF, even after the acts of misappropriation surfaced.

IX. RECOMMENDATIONS

180. As a result of its investigation, the OIG recommends that the Global Fund Secretariat, with the unequivocal support from the CCM, immediately:

- A. Seek to recover from the Principal Recipient, PFI, as well as INP+ and PSF, jointly and severally, all outstanding losses, amounting to at least US\$ 872,000 and as much as US\$ 1.28 million, that the Global Fund and the grant programs suffered as a result of the transfer of grant funds to PSF and the improper activities and uses of funds by Mr. Abraham and others in INP+ and PSF, in violation of the grant agreement.
- B. Seek and achieve the immediate return to the Global Fund of the grant funds, approximately US\$550,000, that continue to remain in the possession of PSF and that have been identified through the OIG forensic exercise as currently within the possession and control of PSF and deposited in financial accounts controlled by PSF.
- C. Ensure that PSF immediately liquidate the properties that it has purchased with Global Fund grant funds and return the funds to the Global Fund, or, in the alternative, execute a proper property transfer from Mr. Abraham to the Principal Recipient so that the program recipient retains true ownership of the property.
- D. Require, in order to remain a Sub-recipient of Global Fund grant programs and receive Global Fund resources, that INP+ immediately separate Mr. Abraham from any affiliation with the Organization;
- E. Require PFI (the PR) to condition any future engagement with INP+ on a clear demonstration that INP+ has:
 - a. reimbursed the Global Fund - via the PR - for the losses to the Global Fund grant funds;
 - b. removed Mr. Abraham from his position and debar him from any future activity related to GF grants, directly or indirectly;
 - c. held accountable any other individuals who are found to be responsible for the fraud and abuse described in this report;
 - d. strengthened oversight of sub-recipients pursuant a Secretariat and OIG approved, and well defined oversight plan; and
 - e. implemented a robust system of internal controls to prevent future fraud and abuse.
- F. Prevent co-mingling of funds from multiple donors by ensuring that future grant agreements require all PRs and SRs to deposit grant proceeds in dedicated Global Fund accounts.
- G. Require that LFAs, CCMs and other fiduciary control bodies verify the use of overheads charged to the Global Fund grants and require and ensure such funds are truly used for program related purposes.
- H. Reinforce the requirement for Principal Recipients, as well as LFAs, to participate in vigilant oversight and appropriate scrutiny of financial management of sub recipients and their use of grant resources, and that there be appropriate accountability when there is a failure to adequately perform these necessary roles.
- I. Refer PSF and Mr. KK Abraham to the Global Fund Sanctions Panel for the initiation of debarment proceedings.

- J. Refer INP+ to the Global Fund Sanctions Panel, in the event that Mr. KK Abraham is not removed from any and all affiliations with INP+, PSF and Global Fund resourced programs and projects.
- K. Halt the practice of instituting audits by PRs or LFA reviews while an OIG investigation is underway.
- L. Consider replacing PFI as Principal Recipient unless it fulfills its oversight responsibilities fully and responsibly.
- M. Require PFI to reimburse the Global Fund for any funds spent on audits or reviews of INP+ while the OIG investigation was underway.

ANNEX 1: PFI - PRINCIPAL RECIPIENT'S COMMENTS AND THE OIG'S REPLY

Reference	Claimed Factual Inaccuracies needing correction as identified by PFI	OIG Response
Page 4 Abbreviations	FCRA – instead of currency it is Contribution MOA – instead of Agreement it is Association	OIG accepts the proposed change
Page 7, point 11	OIG: "...under these two rounds, a total of USD 62 million was awarded to Population Foundation of India as the Principal Recipient....." PFI: PFI was awarded a total of USD 47,783,236 during Round 4 and Round 6 programs	OIG will amend paragraph 11 to read thus: <i>"...under these two rounds, a total of USD 48.5 million was awarded to Population Foundation of India as the Principal Recipient....."</i> This figure is based on the total of the Round 4 and Round 6 grants as indicated at http://portfolio.theglobalfund.org/en/Grant/List/IDA
Page 7, point 11	OIG: "The INP+ was a Sub Recipient under both grants, receiving at total of USD 10.88 million". PFI: Following the agreements between PFI and INP+, a total of USD 10,863,268 was disbursed to INP+ by PFI.	OIG's figure is based on the content of the OIG's forensic accounting report. ¹ The difference may be due to the conversion rate. OIG used a figure of 1 USD = INR 45 throughout the report.
Page 8, point 14	OIG: "...under the agreement, INP+ was to: establish 28 new DLNs by 2007 and strengthen 102 DLNs by 2009; strengthen the existing 25 TCCs and to establish another 25 TCCs by the end of 2008..." PFI: (a) INP+ had planned to set up 30 TCC in phase 2 period, and not 25 TCCs as mentioned in the report.	OIG's information is a direct quote from the Round 4 Phase 2 grant agreement between PFI and INP+, therefore it will not be changed. OIG's information is based on the following information contained within the grant agreements between PFI and INP+: Round 4 (phase 1): <ul style="list-style-type: none"> • Build and strengthen 102 DLN's • Set up 20 TCC's • Set up 5 PLC's

¹ on review of audited financial statements of INP+ for the financial years 2005-2006 to 2009-2010, it was noted that a total of INR 723.89 million (USD 16.09 million) was accounted as project funds of which INR 489.80 million (USD 10.88 million) was received from PFI relating to Round 4 and Round 6.

	<p>(b)INP+ planned to train 10,710 peer educators (in phase 2 alone) and not 14,214 peer educators as mentioned in the report.</p>	<ul style="list-style-type: none"> • Select and train 3340 peer educators <p>Round 4 (phase 2)</p> <ul style="list-style-type: none"> • Establish 28 new DLN's by 2007 & strengthen 102 DLN's by 2009 • Strengthen the existing 25 TCC's and establish another 25 TCC's by end of 2008. • Establish 11 new PLC's by 2008 • Enrol 14,234 peer educators by end of year 2009. • <p>Round 6 (phase 1)</p> <ul style="list-style-type: none"> • Establish 30 new DLN's by 2010 & strengthen 100 DLN's <p>Round 6 (phase 2)</p> <ul style="list-style-type: none"> • Establish 35 new DLN's by 2007 & strengthen 70 DLN's by 2008.
<p>Page 9, point 16</p>	<p>OIG: "...to establish 35 new DLNs by 2007 and strengthen 70 DLNs by 2008..."</p> <p>PFI: 70 DLNs is the cumulative figure by May 2009 (Phase 1). By December 2008, the DLNs would be only 20 non-cumulative.</p>	<p>OIG's information is a direct quote from the Round 6, Phase 1 grant agreement between PFI and INP+. Details are correct and will not be changed.</p>

<p>Page 9, point 18</p>	<p>OIG: <i>Summary of planned INP+ expenditure by category (in USD) for Round 6 phase 1 shows a total of USD 18,00,018</i></p> <p>PFI: (a) The sum of USD 84,056, USD 169,533 and USD 952350 is not USD 1,800,018 as shown in the table.</p> <p>(b) OIG has considered only the year 2 amount (USD 84,056, USD 169,533 and USD 952350) in the table. OIG should consider year 1 amounts too. The year 1 amounts for project monitoring- USD 98,535, for SLNs – USD 163,044 and for DLNs-USD 332,500. Only after including the year 1 figures, the total amount of USD 1,800,018 would be correct.</p>	<p>OIG will amend the table at para 18 by adding the year 1 project monitoring amounts to the year 2 project monitoring amounts, so that the totals are as follows:</p> <table border="1" data-bbox="1030 344 1760 443"> <thead> <tr> <th>Grant (Phase)</th> <th>Term</th> <th>Project Monitoring</th> <th>SLNs</th> <th>DLNs</th> <th>TCCs</th> <th>PLCs</th> <th>total</th> </tr> </thead> <tbody> <tr> <td>Rd 6 (1)</td> <td>Jun 07 – May 09</td> <td>182,591</td> <td>332,577</td> <td>1,284,850</td> <td></td> <td></td> <td>1,800,018</td> </tr> </tbody> </table>	Grant (Phase)	Term	Project Monitoring	SLNs	DLNs	TCCs	PLCs	total	Rd 6 (1)	Jun 07 – May 09	182,591	332,577	1,284,850			1,800,018
Grant (Phase)	Term	Project Monitoring	SLNs	DLNs	TCCs	PLCs	total											
Rd 6 (1)	Jun 07 – May 09	182,591	332,577	1,284,850			1,800,018											
<p>Page 14, point 37, point 45</p>	<p>No MOU was present between INP+ and PSF between December 2007 and May 2010, while point 45 states that MOU between INP+ and PSF had expired during the period November 2007 and June 2010.</p>	<p>Paragraph 45 will be amended to read “Notably, the majority of these funds during a period when no MOU existed between INP+ and PSF”.</p>																
<p>Page 16, chart</p>	<p>PFI: PSF transfers back to INP+ is USD 355,555 (=INR 16,000,000) not USD 385,591 as shown in chart.</p>	<p>OIG acknowledges that PSF transferred a total of INR 16,000,000 back to INP+ (USD 355,555). The chart will be amended to reflect this amount.</p>																
<p>Page 25, point 60</p>	<p>OIG: Karpagam & co CA was contracted by the PR.</p> <p>PFI: Would like to clarify that Karpagam & Co was contactec by INP+ and not by PFI.</p>	<p>The Audit Reports are addressed to the Executive Director of PFI and indicate that the report is intended solely for the information and use of the Global Fund to Fight AIDS, Tuberculosis and Malaria, and the Population Foundation of India.</p> <p>OIG will amend paragraph 60 to read: “The information in the table below was ascertained from the annual audit reports (addressed to PFI) of Karpagam & Co. Chartered Accountants, who audited the ACT and PACT programs implemented by INP+ from 2005 to 31 March 2010.”</p>																

Investigative Report on India HIV/AIDS (Rounds 4 & 6) Funds Transferred to PSF

Page 25-point 60, page 26-point 60, Page 58-point 159	Inconsistency in the figures – USD 1,284,256; USD 1,284,166, USD 1,284,256	OIG will amend the report at Page 25, paragraph 60 and page 58, paragraph 159 to read USD 1,284,166.																		
Page 26, point 60	PFI: The Round 6 Phase 1 figures include only the year 2 figures for DLN's. So, OIG should include year 1 figures (USD 332,500) too in the table. Thus the total would be USD 1,617,427	OIG will amend the table on page 26 thus: <table border="1" data-bbox="1077 453 1825 560"> <thead> <tr> <th></th> <th>Grant (Phase)</th> <th>Round 4 (1)</th> <th>Round 4 (2)</th> <th>Round 6 (1)</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Funds for DLNs</td> <td>Month/Year Covered</td> <td>4/2005 – 3/2007</td> <td>4/2007 – 3/2010</td> <td>6/2007 – 5/2009</td> <td></td> </tr> <tr> <td></td> <td>Budget</td> <td>1,025,743</td> <td>4,070,004</td> <td>1,284,850</td> <td>6,380,597</td> </tr> </tbody> </table>		Grant (Phase)	Round 4 (1)	Round 4 (2)	Round 6 (1)	Total	Funds for DLNs	Month/Year Covered	4/2005 – 3/2007	4/2007 – 3/2010	6/2007 – 5/2009			Budget	1,025,743	4,070,004	1,284,850	6,380,597
	Grant (Phase)	Round 4 (1)	Round 4 (2)	Round 6 (1)	Total															
Funds for DLNs	Month/Year Covered	4/2005 – 3/2007	4/2007 – 3/2010	6/2007 – 5/2009																
	Budget	1,025,743	4,070,004	1,284,850	6,380,597															
Page 43, point 104 vs point 106	Point 104 states that the property is in the name of Mr Abraham as President of PSF, while point 106 states that the deed of sale is in the name of PSF.	Paragraph 104 will be amended thus: The last sentence – “The property is in the name of Mr Abraham, as President of PSF” will be deleted.																		
Page 58, point 156	OIG: “... Additionally, PFI specifically transferred to PSF over USD 600,000 that.....” PFI: PFI has never transferred any amount to PSF.	Paragraph 58 will be amended thus: “...Additionally, PFI specifically transferred to INP+ over USD 600,000 that.....”																		
Page 58, point 162	OIG: OIG has been informed that approximately just USD 300,000 has been returned by PSF. PFI: The correct amount transferred was USD 355,555	Paragraph 58 will be amended thus: “To date, the OIG has been informed that just US\$ 355,555 (INR 16,000,000) has been returned to PSF.”																		

ANNEX 2: MR. ABRAHAM'S COMMENTS

Preliminary Comments

Interim comments to the OIG Report

The Letter of Authorization by Mr. John Parson dated 27 August 2010 and email communication by Mr. Andrew Mc Loughlin dated February 14, 2011 never mentioned that INP+ transferred Global Fund money to the PSF. INP+ trusted your email communication which is transfer of funds of INP+ to PSF. You have never mentioned the GF grant transfer to PSF. Due to the courtesy and obligations to global fund, we accepted your invitation. But your investigation report has been beyond the purview of global fund grant.

III Investigative Findings

In this report Mr. KK Abraham's submission and admission are totally being misrepresented and misinterpreted according to the convenience of the OIG

A. INP+ Misappropriated Grants Funds through Transfers to PSF

As stated in the report *"The investigation has revealed that Mr. Abraham, current General Secretary and former President of INP+ was the central force behind the determination to create and facilitated its creation and the transfer of funds from the sub-recipient to the entity"*

Comments of INP+: INP+ totally denies the above statement. Mr. KK Abraham only took a leadership role in facilitating the formation of PSF with the support and under the guidance of all the board members of INP+ and the General Body members which consisted of 111 state level representatives who had unanimously passed the initiative taken by INP+ during the Annual General Body Meeting held at New Delhi on the 29th November 2006.

It is not in dispute that PSF also work for the well being and welfare of People Living with HIV. PSF's accounts are not subject to scrutiny and audit by GF or any agency appointed by it, but out of sheer courtesy and civility, PSF also subjected itself to scrutiny of its accounts. This would only go to show that there has been no mishandling of funds. At the time of disbursement of the grant, in the outlay of funds, it was understood that 8% of the total grant would be set apart initially for overheads for a period of 2 years and thereafter towards management cost. Management cost can include building of infrastructure in future which can bring down the operating cost. It was honourably agreed between all concerned that 8% of the total grant adhoc set apart under this head can be used by a grantee (in this case, SR INP+) at its discretion. Significantly, when the annual accounts were exchanged, there was no request for cost based break up.

In sum and substance, INP+ is sure that GF will agree that the grant has not been used for any purpose outside the broad core objective. The quarterly accounts exchanged have also been scrutinized and duly approved by local fund agent which is a reputed accounting firm. When need arises, supporting documents which are deemed necessary shall also be pressed into service by INP+.

INP+ has received 48,88,47,038 (R4 2005 – 2010 and R6 2007-2010) amount of money and implemented ACT and PACT programs in 9 States. Under that 8% overhead/management fee under R4 and 6% cost under R6 has been charged by INP+. This overhead/management cost is entitled for INP+ to implement the program. INP+ has submitted quarterly and annual Audit reports for the entire program to PFI and LFA periodically as per the requirement. During that time there were no Audit objections raised either by PFI or LFA. Under this grant, INP+

entitlements of 8% of overhead/ management cost under R4 and 6% under R6 was charged on monthly bases during the program period. This has been the usual practice and PFI and LFA have never objected this during the implementation of the program.

"INP+ General Secretary and PSF President Abraham said he believed that the overhead fee charges by INP+, like a personal salary, could be utilized for whatever purpose INP+ desired."

Comments of INP+: Mr. KK Abraham's statement has been totally misrepresented by OIG. Abraham has stated that the overhead cost charged is not taken as individual salaries rather utilized for the implementation of the entire program being implemented by INP+ across the country. He cited an example "If he is working under the grant and taking a monthly salary and purchases a shirt, would Global Fund claim that the shirt belongs to Global Fund".

The Chart of the Global Fund Grant Funds Misappropriated by INP+ is creating more confusion and baseless, because INP+ never transferred Global Fund funds to PSF. INP+'s own funds were been transferred to PSF for the noble mission.

The calculation that has been provided is completely incorrect and is not acceptable to INP+.

B. Concealment of Transfers to PSF

The report on concealment of transfers is a transgression of OIG report on the functioning of INP+, the audit reports signed by qualified CA under Indian Laws and its due compliance. OIG is advised well within their wisdom to peruse all the quarterly, annual reports of GFATM under R4 and R6 duly audited and submitted by INP+ society. Concealment of information and any reference to INP+ society financial reports will be uncalled for. It is not the business of OIG and GFATM project to indulge in such reporting.

2. Disguised Transfers through Third parties.

INP+ totally denies the allegation that Mr. Abraham had given Rs.50,000/- to the individual as mentioned. On the transfer of funds by Kanmani Chandran and Vijayasri is out of place and not connected to GFATM project. Donation by an individual or associate set up in PLHIV movement for the welfare of the movement is out of the purview of OIG.

C. Payment of Rent, Utilities and Renovations for a Residential Flats occupied by a Close Friend of INP+'s President

Kindly note that PSF's President Mr. Abraham has lots of friends within PLHIV community also besides Mr. MK Shah, including some of the so called whistle blowers. To run a huge project of GFATM there should be friends and not foes. OIG does not appreciate and understand such things as it has no administrative experiences and only an investigating policing and reporting functionary. Mr. MK Shah is not a fly-by-night friend of our General Secretary Mr. Abraham and he is one of the persons who nurtured INP+ during its initial days of struggle and even conducted PLHIV monthly meetings at his residence including INP+ office for some time. He is one of the well wisher of INP+ and a God Father as he is well known in the organization among its members.

Further OIG report continues to deliberately undermine the reputation of Mr. Abraham and Mr. MK Shah by reporting on paintings, polishing etc which are PSF expenditure and not from funds

of GFATM. It is irrelevant and uncalled for, from INP+ point of view and an intervention of discretionary power of Mr. Abraham as the General Secretary of INP+ and President of PSF.

Mr. Abraham, for official work, is spending 10 to 12 working days in a month in Pune. If an average cost of living of Mr. Abraham is calculated as Rs.5,000/- per day that will cost INP+ and PSF Rs.30 lacs for 5 years, which is a saving for INP+ and GFATM. Mr. MK Shah has not charged for 4 years of rent at rate of Rs. 10,000/- which is purely your assumption. INP+ vehemently denies the allegations made against Mr. Abraham that it has been used for his personal advantage.

Moreover, these expenses that you have cited through your photographs have not been spent from the Global fund grant to funds INP+

D. Mr. Abraham's PSF Hires – Personal Friends and Excessive salaries

Salaries paid to Mr. MK Shah and Mr. RM Shah are not from GFATM funds and therefore it is out of the purview of the report. However please provide the evidence for excessive salary which is tabulated in your report as Rs. 2,459,000 for Mr. RM Shah, Rs. 763,000 for Mr. MK Shah and Rs.76,500/ for KK Abraham.

E. Payments for Driving Lessons and Expenses of Non Employees

These payments were not utilized under the Global Fund grant. This is beyond the scope of your enquiry

F. Retaliation Against Critics and Whistleblowers

Whistle blower has an agenda and axe to grind having acted against the interest of INP+ and in cross purpose. Fund mentioned your report is not from the Global Fund Grant.

G. Conflict of Interest

PFI never ever reported any incident of Article 19 violation.

H. Purchase of Land

The deed of sale shows that as the President of PSF, Mr. KK Abraham, only represented the PSF to sign the deed and it is not his personal property. We deny your allegation that Abraham can sell the property. The purchase of land has also been shown in the audited statement of accounts. The land is not purchased under the Global Fund grant therefore it is beyond the scope of your investigation

I. Purchase of Car of Mr. KK Abraham

INP+ denies that the purchase of car is in Mr. Abraham's name and being used for his personal purpose. It is being used for official purpose only. The car is not purchased under the Global Fund grant therefore it is beyond the scope of your investigation.

The amount transferred from PSF to HDRN is an internal matter and purchase of the car that has been mentioned is not for personal need. It has been used for official use and this is also beyond the purview of Global Fund grant.

XXXXXXXXXXXXXXXXXXXX

Second Round of Comments

Comments to the Draft OIG Report

The Letter of Authorization by Mr. John Parson dated 27 August 2010 and email communication by Mr. Andrew Mc Loughlin dated February 14, 2011 never mentioned that INP+ transferred Global Fund money to the PSF.

INP+ trusted your email communication about the transfer of funds from INP+ to PSF. There was no mention about the GF grant transfer to PSF. Due to the courtesy and obligations to global fund, INP+ accepted your invitation, but your investigation report has been beyond the purview of global fund grant.

Process of the Investigation

INP+ felt that the process of the investigation and audit was discriminatory and biased. INP+ never had an opportunity to represent its issues before the 1st working group set up by the ICCM. However, INP+ shared its communications related to the allegation raised at ICCM to the PR, which CCM working group disguised conveniently.

The KPMG report was not shared with INP+ despite several requests made to CCM, PFI and OIG. However, after the investigation, KPMG report was shared with INP+ obliging its request, post seeking comments on draft report that too after INP+ brought up the issue in its preliminary comments.

OIG auditors came to PSF (Pune) without giving prior intimation pertaining to the real fact and findings of the KPMG report

Forensic report: INP+ would like to know the intention behind the auditors' negligence in undertaking a visit to NMP+ and UPNP+ where there was a mishandling of Global Fund grant according to the allegations from DLNs in Maharashtra and Uttar Pradesh

Global Fund is not authorized to report the activities of PSF, since PSF is an autonomous and a body registered under a statute, which has not received any grant from global fund.

III Investigative Findings In this report Mr. KK Abraham's submission and admission are totally being misrepresented and misinterpreted according to the convenience of OIG

A. INP+ Misappropriated Grants Funds through Transfers to PSF

INP+ has transferred fund through appropriate manner such as board meeting, annual general body meetings and signing of MOU. Hence the question of misappropriation doesn't arise. There is no credible and substantive evidence for GF Money transfer to PSF.

As stated in the report *"The investigation has revealed that Mr. Abraham, current General Secretary and former President of INP+ was the central force behind the determination to create and facilitated its creation and the transfer of funds from the sub-recipient to the entity"*

Comments of INP+: INP+ totally denies the above statement. Mr. KK Abraham only took a leadership role in facilitating the formation of PSF with the support and under the guidance of all the board members of INP+ and the General Body members numbering 111 state level representatives who had unanimously passed the initiative taken by INP+ during the Annual General Body Meeting held at New Delhi on the 29th November 2006.

It is not in dispute that PSF also work for the well being and welfare of People Living with HIV/AIDS. PSF's accounts are not subject to scrutiny and audit by GF or any agency appointed by it, but out of sheer courtesy and civility, PSF also subjected itself to scrutiny of its accounts. This would only go to show that there has been no mishandling of funds. At the time of disbursement of the grant, in the outlay of funds, it was understood that 8% of the total grant would be set apart initially for overheads for a period of 2 years and thereafter towards management cost. Management cost can include building of infrastructure in future which can bring down the operating cost. It was honourably agreed between all concerned that 8% of the total grant adhoc set apart under this head can be used by a grantee (in this case, SR INP+) at its discretion. Significantly, when the annual accounts were exchanged, there was no request for cost based break up.

In sum and substance, INP+ is sure that GF will agree that the grant has not been used for any purpose outside the broad core objective. The quarterly accounts exchanged have also been scrutinized and duly approved by local fund agent which is a reputed accounting firm. When need arises, supporting documents which are deemed necessary shall also be pressed into service by INP+.

INP+ has received 48,88,47,038 (R4 2005 – 2010 and R6 2007-2010) amount of money and implemented ACT and PACT programs in 9 States. Under that 8% overhead/management fee under R4 and 8% cost under R6 has been charged by INP+. This overhead/management cost is entitled for INP+ to implement the program. INP+ has submitted quarterly and annual Audit reports for the entire program to PFI and LFA periodically as per the requirement. During that time there were no audit objections raised either by PFI or LFA. Under this grant, INP+ entitlements of 8% of overhead/ management cost under R4 and 8% under R6 was charged on monthly bases during the program period. This has been the usual practice and PFI and LFA have never objected this during the implementation of the program.

The Global Fund grant is a performance based funding, where the fund release for the consecutive quarters were made upon the satisfied receipt of quarterly audited Utilization Certificates from INP+ which continued for 20 quarters of GF R4 and 12 quarters of GF R6. During the project implementation phase, INP+ had achieved the targets set by PFI to 160% in which, there had been no single incidence of objection raised either by PR, LFA, CCM or Global

fund regarding the utilization of 8% grant being charged as overhead/management fee by INP+. Now Global Fund is estopped by raising this matter.

"INP+ General Secretary and PSF President Abraham said he believed that the overhead fee charges by INP+, like a personal salary, could be utilized for whatever purpose INP+ desired."

Comments of INP+: Mr. KK Abraham's statement has been totally misrepresented by OIG. Abraham has stated that the overhead cost charged was not incurred on individual salaries rather utilized for the implementation of the entire program being implemented by INP+ across 9 states in the country. He cited an example "If he is working under the grant and taking a monthly salary and purchases a shirt, would Global Fund claim that the shirt belongs to Global Fund".

The Chart of the Global Fund Grant Funds alleging misappropriation by INP+ is baseless and creating more confusion, because INP+ never transferred Global Fund funds to PSF. INP+'s own funds were transferred to PSF for the noble mission.

The calculation that has been provided is completely incorrect and is not acceptable to INP+.

B. Concealment of Transfers to PSF

The report on concealment of transfers in OIG report is untenable. On the functioning of INP+, the audit reports have been signed by qualified CA under Indian Laws. OIG is advised well within their wisdom to peruse all quarterly, annual reports of GFATM under R4 and R6 duly audited and submitted by INP+ society. Concealment of information and any reference to INP+ society financial reports will be uncalled for. It is not the business of OIG and GFATM project to indulge in such reporting.

However INP+ is going to recruit a qualified CA at the national secretariat to handle internal finance control mechanism and financial policy

2. Disguised Transfers through Third parties.

INP+ totally denies the allegation that Mr. Abraham had given Rs.50,000/- to the individual as mentioned. On the transfer of funds by Ms. Kanmani Chandran and Ms. Vijayasri is not relevant to mention as it is not related to GFATM project. Donation by an individual or associate set up in PLHIV movement for the welfare of the movement is not coming under the purview of OIG.

C. Payment of Rent, Utilities and Renovations for a Residential Flats occupied by a Close Friend of INP+'s President

It should be noted that PSF's President Mr. Abraham has lots of friends within PLHIV community and Mr. MK Shah, besides some of the so called whistle blowers. To run a huge project of GFATM, there should be friends and not foes. OIG does not appreciate and understand as it has no administrative experiences and only an investigating, policing and reporting functionary. Mr. MK Shah is not a fly-by-night friend of INP+'s General Secretary Mr. Abraham and he is one among the persons who nurtured INP+ during its initial days of struggle.

He supported in conducting several PLHIV meetings at his residence and INP+ office. He is one of the well wishers of INP+ and considered as a Pioneering force by INP+ members.

It is noteworthy to mention here, that OIG report continues to deliberately undermine the reputation of Mr. Abraham and Mr. MK Shah by reporting on paintings, polishing etc which were made out of PSF funds and not from the funds of GFATM. OIG report is irrelevant and uncalled for. INP+ strongly believes that Mr. Abraham as the General Secretary of INP+ and President of PSF has all the discretionary power to undertake any activity required for the project.

Mr. Abraham, for official work, is spending 10 to 12 working days in a month in Pune. If an average cost of living of Mr. Abraham is calculated as Rs.5,000/- per day that will cost INP+ and PSF Rs.30 lacs for 5 years which is a saving for INP+ and GFATM. Mr. MK Shah has not charged for 4 years of rent at rate of Rs. 10,000/- which is purely OIG's assumption. INP+ vehemently denies the allegations made against Mr.Abraham that it has been used for his personal advantage.

Mr. KK Abraham is one of the pioneers of the PLHIV movement in India. The movement consists of more than 26 state and 300 district level networks. He is working for more than 12 hours a day and above mentioned flat is mostly used for official purpose i.e. counseling, conducting confidential meetings and interactions pertaining to projects and finance training to DLNs individually. The allegation that Mr. KK Abraham by using global fund money for personal advantage which is purely a Geneva concept.

Moreover, these expenses that you have cited through your photographs have not been spent from the Global fund grant to INP+

D. Mr. Abraham's PSF Hires – Personal Friends and Excessive salaries

Salaries paid to Mr. MK Shah and Mr. RM Shah is not from GFATM funds and therefore it is out of the purview of the report. However it is requested to provide the evidence for the statement regarding excessive salary tabulated in OIG report for Rs. 2,459,000 to Mr. RM Shah, Rs. 763,000 for Mr. MK Shah and Rs.76,500/ for KK Abraham. Our books of Accounts not tally with your evidence , please send us the evidence which you claim to have found through your forensic experts.

E. Payments for Driving Lessons and Expenses of Non Employees

These payments were not utilized under the Global Fund grant. This is beyond the scope of your enquiry

F. Retaliation Against Critics and Whistleblowers

The purported Whistle blower has an agenda and axe to grind and act against the interest of INP+ and in cross purpose. Fund mentioned in your report is not from the Global Fund Grant.

The purported whistle blower Mr. Manoj Pardesi, involved in many criminal cases which is offence to our byelaws clause 11 Enrolment of Members 2. Procedure of Removal: b. if he/ she is convicted of any criminal offence such as homicide, theft, rape, robbery, murder and sexual harassment. INP+ has done the investigations to save INP+ from negative elements.



Find below the press clipping of another purported whistle blower Mr. Naresh Chandra Yadav from UPNP+, Uttar Pradesh





The purported whistle blowers, NMP+ and UPNP+ did not submit audited financial statements upto March 2009 for six months till September 2009 which was known to PFI. The external auditors visited NMP+ and UPNP+ as per recommendations of PFI did point the systemic failures. The external auditor at one point of time did refuse to sign INP+ annual audit reports for the year ending March 2009 until the misappropriations and fraudulent accounting were redressed. INP+ had given time from 2008 to 2009 to NMP+ and UPNP+ to rectify their mistakes and come clean which they did not obey or concede. INP+ as an organization in its Board meeting and wisdom took a decision to terminate NMP+ & UPNP+ for anti PLHIV movement and anti INP+ activities which is the fundamental right of an elected Board of INP+. Further, the purported whistle blowers sent a letter to CCM on 01st Dec 2009 after the concerned members lost elections in the INP+ AGM held on 29th November 2009 at Guwahati and broke the trust.

Find below the minutes of the meeting facilitated by PFI regarding the financial issues at Maharashtra state level network.

Minutes of Meeting

Agenda: Pending claims of NMP+ from INP+ and Matter of pending grant of 12 DLNs of Maharashtra

Date and time: 01st October 2010 at 11 a.m.

Venue: Board Room, Population Foundation of India (PFI) Office, New Delhi

Participants:

A. PFI

1. Dr. Poonam Mutreja, Executive Director, PFI
2. Dr. Mary Verghese, Project Director, PFI
3. Mr. Milan Rana, Finance and Administration Manager, PFI
4. Mr. Sunil Kumar, Grants Manager, PFI
5. Ms. Leena Krishnan, Sr. Accounts Officer, PFI
6. Mr. K N Gupta, M/s Thakur Vaidyanath Aiyer & Co., Chartered Accountants

B. NMP+

1. Mr. Manoj Pardeshi, NMP+
2. Mr. Yuvraj, NMP+

C. INP+

INP+ communicated to PFI vide email dated 28th September 2010 regarding their inability to attend this meeting due to ongoing KPMG audit.

D. CCM

CCM communicated to PFI vide email dated 29th September 2010 stating that "CCM would like PFI to settle this matter on their own".

Discussion:

I. Pending claims of NMP+ from INP+

NMP+ had shared details of pending claims from INP+. The details of the discussion of pending claims, as explained by NMP+, are as below:

A. Salary

The state level networks have implemented the Positive Living Centres (PLC) in the state until September 2009. From October 2009, the PLCs were implemented by the DLNs. All the staff of Pune PLC was transferred to DLN except Accountant and Office Assistant, which were retained by SLN. From October 2009, funds were directly transferred by INP+ to DLNs including PLC.

INP+ has not disbursed any funds to SLN and SLN was managing its expenditure including PLC from its balance funds of Rs. 13 lakhs from financial year 2008-09.

Salary of these two staff members was paid by NMP+ for the month of May and June 2009 and was also shown in Utilization Certificate. This salary for these two months was paid at the rate of old salary i.e. salary structure of 2008-09 which was Rs.4000 pm for Accountant and Rs.2750 for Office Assistant, because budget for 2009-10 was received by NMP+ in August 2009. The new salary rate for Accountant and Office Assistant was Rs.4840 pm and Rs.3025 pm respectively for 2009-10. While their salary for the months of July – Sept 2009 was not paid by SLN due to lack of fund and hence was not shown in Utilisation Certificate, which was made on

payment basis. Thus, salary for these staff members was due for the month of July – Sept 2009 apart from differential salary for the month of May and June 2009. It has been claimed by NMP+ that outstanding salary for these two staff members has been paid by NMP+ later on. Evidence of payment of salary to these two staff members is required from NMP+.

It may be noted that when INP+ had requested from SLN and DLNs for details of outstanding salary for staff members for period 2009-10, details of these two staff members were neither intimated by DLN (not being their staff at any time) nor by NMP+ (not being NMP+ staff after September 2009).

Also, Salary for these two staff members for the month of April 2009 has not been claimed by NMP+. Reason could not be explained by NMP+ and they informed us that they shall share reason for this after discussing with their finance personnel.

An amount of Rs.25,825/- has been claimed by NMP+ from INP+ towards salaries for Accountant and Office Assistant.

Decision shall be taken after obtaining above mentioned documents.

B. Planning and administration:

Following amount was paid by NMP+ for period from October 09 to March 2010 by taking loan of Rs.26,111/-:

S. No.	Particulars	Period	Amount (Rs.)
1	Travelling	Oct 09 – March 2010	8189
2	Office supplies	Oct 09 – March 2010	8105
3	Maintenance	Oct 09 – March 2010	7122
4	Communication	Oct 09 – March 2010	2744
	Total		26160

This amount has already been reported by NMP+ in their reports (i.e. utilisation certificate and Receipt and Payment Account) of 2009-10. Now NMP+ claims for repayment of loan amount which was taken to pay above expenses. It has been informed by INP+ that these expenditures are above budget and hence can't be paid. It was reviewed and found by PFI that though, expenditure under head maintenance, communication and rent was above budget of their respective head but within overall budget. Details of these expenditures as below:

S. No.	Particulars	Budget for 2009-10	Expenditure including above claim	Variance	Remark
1.	Travelling	129780	48734	81046	
2.	Maintenance	9000	20484	-11484	Over budget
3.	Communication	18720	28628	-9908	Over budget
4.	Office supplies	9000	26381	-17381	Over budget
	Total	166500	124227	42273	

But, it was also observed by PFI that as per audited Utilisation Certificate of NMP+ related to "Global Fund Access to Care and Treatment Project (OTHER ACTIVITY) for 2008-09, there is unspent closing balance of Rs.35413 while as per audited Receipt & Payment Account of NMP+ relating to Global Fund Access to Care and Treatment Project (ACT SLN) for 2009-10, there is nil opening balance instead of Rs.35,413. Reason for this difference could not be explained by NMP+. What was the need of taking loan of Rs.26,111/- when there was already unspent balance of Rs.35,413.

Thus, it may be summarized as follows:

- a) Expenditure under head i) Maintenance, ii) Communication and iii) Office Supplies has exceeded their respective budget
- b) There was no need of taking loan of Rs.26,111/- while there was already balance of Rs.35,243/-.

Rent:

Rent amounting to Rs.60,000/- (i.e. Rs.10,000 for 6 months from October 2009 – March 10) has also been claimed by NMP+. This rent is payable to society run by NMP+ and this is notional rent i.e. to be paid internal and not be paid to external party. But the same was being allowed by INP+ to NMP+ under Avahan project till April 2009. This rent amount is still due and is to be paid to the society of NMP+. It may be noted that Rs.50,000/- has been charged as rent by NMP+ and also shown in Utilisation Certificate for year 2009-10.

Also, it was communicated to NMP+ by PFI that charging notional rent to project is not acceptable to The Global Fund under RCC project which started from April 2010.

Rent agreement / lease agreement for rent for 2009-10 is required. Evidence of charging rent, duly approved by INP+, for NMP+ office from Avahan project till April 2009 is also required.

After obtaining these documents, we can decide about this matter.

C. PTE Training

Rs.127243 has been claimed by NMP+ towards expenditure incurred for PTE training in period of 2008-09. It could not be explained by NMP+ that why this expenditure was not claimed in 2008-09.

Also it was noted from visit / observation report of Finance Manager, INP+ dated 04th November 2009 that the expenditure of Rs.127243 for PTE training was disallowed by INP+ being expenditure incurred above budget. The relevant portion of the visit report is as follows:

"PTE training expenses:-

From UC it is noticed that actual expenses were Rs.11,66,243 against funds sent by INP+ to SLN amounting to Rs.10,36,000/-. There is no necessity to spend an amount over and above the funds sent to SLN and therefore an amount of Rs.1,27,243 shown as advance from NMP+ is disallowed. "

NMP+ agreed to provide reason for not claiming Rs.1,27,243/- in 2008-09 and why the same is being claimed now. They also agreed to share documented reason for incurring this expenditure when budget was already consumed. Regarding PTE training, evidence that it was done at instruction of INP+ e.g. email from PFI / INP+ even after exceeding budget is also required. Also, details of total trainings done along with details of participants, venue and host of trainings.

After obtaining these documents, we can decide about this matter.

D. Receivable amount from staff of SDP

As informed by NMP+, an amount of Rs.95,000/- has been given to staff members of PLC either directly or through PLC / TCC. Some amount was also given to PLC for other purposes. Like in case of Pune PLC, amount of Rs.15000 was given by SLN for rent deposit. Details of advances to staff and PLC are as hereunder:

S. No.	Staff / PLC / TCC name	SDP	Amount (Rs.)
	A. Staff		
1	Swapnil Sonawane	Pune PLC	5000
2	Mahadev Touti	Pune PLC	5000
3	Kavita	Pune PLC	5000
4	Manisha Powar	Pune PLC	5000
5	Sanjav Jadhav	Pune PLC / DLN	30000
	Sub-total (A)		50000
	B. PLC / TCC		
	Pune PLC deposit	Pune PLC	15000
	Mumbai TCC	Mumbai TCC	5000
	Beed PLC	Beed PLC	25000
	Sub-total (B)		45000
	Total (A) + (B)		95000

The implementation and management of PLC was decentralized by INP+ from the SLN to DLN with effect from October 2010. Accordingly staff of PLC was also transferred from SLN to the DLNs from October 2010. Payment of salary of staff members of PLC was paid by NMP+ till September 2009. Thereafter, salary was directly paid by INP+. NMP+ became aware of this fact on or before 03rd October 2010 and wrote a mail to INP+ regarding this direct payment by INP+.

These advances were given in October 2009 i.e. the period when salary was paid directly by INP+. It may be noted that salary was not being given to PLC staff members but advance was given to them. NMP+ did not communicate to INP+ regarding this advance payment to staff and regarding adjustment of these advance payments. Consequently, complete salary till March 2010 was paid by INP+ without adjusting these staff advance. And now, some recovery was made from few staff members / PLC / TCC but still, Rs.95,000/- is receivable from staff members / PLC / TCC. The same amount of Rs.95,000/- is being claimed by NMP+ from INP+ on the ground that if the salary of PLC was not paid by INP+ directly, NMP+ would have adjusted

the advance from payment of salary to these staff members. Nature of advance given to PLC was not mentioned under claim sheet provided by NMP+.

It was alleged by NMP+ that INP+ had started transferring fund directly without any information to NMP+ and this was stated by NMP+ as a clear violation of communication channel.

It was agreed that there is some violation on part of NMP+ e.g. a) paying advance by SLN to staff when salary is being paid directly by INP+ and b) not intimating INP+ regarding this advance payment to staff due to which INP+ could not adjust these advances while making final salary payment. Thus, efforts should be made by NMP+ to recover this amount of Rs.95,000/- from respective staff members / PLC / TCC.

II. Matter of pending grant of 12 DLNs of Maharashtra for April – July 2010

Issue of pending grant of 12 DLNs of Maharashtra for April – July 2010 was discussed. It was informed by PFI that out of 12 DLNs, MoU has been signed with 10 DLNs for period from August and September 2010 and for balance two DLN, matter is under progress. It was further shared by PFI that the issue of 12 DLNs shall be looked into and necessary action shall be taken to resolve this matter.

Decision:

It was decided to gather further necessary documents and evidence in support of legitimacy of claims of NMP+ and finalise the issue based on available documents.

Followings documents / information shall be submitted by NMP+ to PFI for further verification by PFI:

1. Evidence of payment of salary amounting to Rs.16200 to Mr. Pritam Bhatale, Accountant, Pune PLC for the months from May 2009 to September 2009 is required. Also, evidence for this payment by cheque is required.

Evidence of payment of salary amounting to Rs.9625 to Mr. Shanker Khandagale, Office Assistant, Pune PLC for the months from May 2009 to September 2009 is required. Also, evidence for this payment by cheque is required.

Further, status of payment of salary for the month of April 2009 to Accountant and Office Assistant and if salary paid, then reason for not claiming differential salary for the month of April 2009 is also required.

2. Rent agreement / lease agreement for rent charged during year 2009-10.

Evidence of charging rent, duly approved by INP+, for NMP+ office from Avahan project till April 2009.

Whether INP+ has accepted notional rent paid by you till September 2009 and claimed by you in Utilisation Certificate for 2009-10? Had they communicated anything regarding non-acceptance of this rent after submission of Utilisation Certificate for the period 2009-10.

As per audited Utilisation Certificate of NMP+ for 2008-09, there is unspent closing balance of Rs.35413 while as per audited Receipt & Payment Account of NMP+ for 2009-10, there is nil opening balance instead of Rs.35,413. Reason for this difference is required.

3. Regarding PTE training, evidence that it was done as per instruction of INP+ e.g. email from PFI / INP+ even after exceeding budget.

Also, details of total trainings done along with details of participants, venue and host of trainings.

Reports i.e. Utilisation Certificate, Receipt & Payment Accounts, or any other documents submitted to INP+ claiming Rs.1,27,243/-. And if this expenditure / claim was shown in the reports / documents, reason provided by INP+ for not admitting the claim of Rs.1,27,243/-.

Find below the email sent by INP+ to NMP+ for which we did not receive any satisfactory response till date.

To:nmpplus@gmail.com

Subject: Financial System- Lost, Not Found, Don't Know.htm

Date: Tuesday, June 02, 2009, 16: 38 pm

Dear Manoj,

Your point wise letter is received.

Are you satisfied with that letter and answers given by you?

NMP+ network is established for more than 10 years now and same President/Secretary/Treasurer who are organizing this network from the beginning.

There is no importance of this voucher or that vouchers, done or not done.

When auditors visited your network they checked only random vouchers, what about others?

Your system in Finance Department has completely flopped.

From your letter you seem to blame others who are not in the employment at present. When they were present why no steps were taken by you?

There are so many complaints against NMP+ that they have not given money.

After the audit, it was brought to our notice by so many DLN's that they have given 50-50/60-60 blank vouchers signed by them and no money has reached them.

We came to know that you have taken signed blank cheques in one the case it was found from Bank statement that name of payee is only "AIDS" and amount was mentioned.

It was informed that they have given thousands of rupees to NMP+ @ Rs.1300/- from all DLN's i.e., $34 \times 1300 = 44200$ /- P.M. & Rs.530400/- per year, for last two years and Rs.50000/-, 80000/-, 88000/- from some DLN's.

Difference in cash balance of Rs.434361/- is adjusted now, but how you have audit done with this difference?

"Why this difference is, you know very well"

Mr. M.K. Shah, Dadajee informed that he has seen Jalna accounts, but President and Secretary cannot give any explanations. They said to Dadaji that they know nothing about the matter and all that was done by NMP+ staff and Aurangabad Treasurer. When this was shown by Dadaji to Manoj Pardesi for which he is completely "not knowing anything". Accountant is handling Rs.5000/- or 10000 for petty cash and not huge amounts to put the blame on Accountant.

Your earlier accountant Mr. Vinod has not done anything in accounts and after your new accountant Mr. Mantri joined the position is same nothing is improved. As per Mr. Manoj's instructions your staff is coming to Dadaji to complete current years Accounts however conditions are same. There are common answers "Lost, Not found, Not know"

Records lost in common answer for DLN's also, but when Dadaji insisted they opened their mouth.

Dadaji has given training to your accounts dept. for more than 4 to 5 years and shown the systems but you change that Accountant & auditors but not changed the systems.

Whoever insists for proper systems you changed that person (Accountant) and when any clarification is sought by any Auditor you changed that Auditor also, but you have not changed your systems.

What about double bills entered, altering amounts by Rs.100/-, 1000/- etc., in bills and vouchers without bills.

As a founder member of NMP+ I am disheartened about non existence of financial systems. In future INP+ has to think twice before any financial transactions.

Disappointed,

K.K. Abraham

Indian Network for People Living with HIV/AIDS
New No. 41, Old no. 42/3, Second Main Road,
Kalaimagal Nagar, Ekkaduthangal,
Chennai-600 097, Tamil Nadu

Ph: (044) 22254670; 22254671; 22254672
(044) 22254673; 22254674; 42641580
INP+ : An ISO 9001:2000 Certified CBO

Find below the email sent by Mr. Elango Ramachandra, and his intention

From: Elango Ramachander <elangoraam@gmail.com>
Date: Mar 18, 2010 9:37 AM
Subject: PSF By-Law
To: manoj pardesi <manojpardesi@gmail.com>

Dear Manoj,

Greetings!

I am sending the typed version of PSF By-law for your reference. Pls read careully and observe some loop holes to attack KK.

Regards,
Elango.R

G. Conflict of Interest

PFI never ever reported any incident of Article 19 violation.

H. Purchase of Land

The deed of sale shows that Mr. KK Abraham, as the President of PSF had represented the PSF to sign the deed and it was not his personal property. INP+ denies the allegation that Abraham can sell the property. The purchase of land was also shown in the audited statement of accounts. The land was not purchased under the Global Fund grant therefore it is beyond the scope of your investigation

I. Purchase of Car of Mr. KK Abraham

INP+ denies that the purchase of car is in Mr.Abraham's name and being used for his personal purpose. It is being used for official purpose only. The car is not purchased under the Global Fund grant therefore it is beyond the scope of your investigation. The amount of the car purchased is reflected in the audited statement of PSF

The amount transferred from PSF to HDRN is an internal matter and purchase of the car that has been mentioned is not for personal need. It is being used for official use and this is also beyond the purview of Global Fund grant.

KPMG report

1. Violation of Article 3:

The scope of the KPMG report shows that out of the total grant received by INP+ 8% was utilized towards overhead/ management cost and balance 92% for program expenses. Utilization of this overall grant was obtained for overall performance and there was no dispute in the project funds utilized by INP+. As there was no dispute in the Utilization of global fund grant received by INP+, how can KPMG state that there was a violation of Article 3? INP+ denies the violation of Article 3.

2. PSF transfer

It is unfortunate that the verbal statement of INP+ General Secretary was misinterpreted by KPMG. However KPMG reviewed the documents later and stated that there was no such incidence of INP+ diverting global fund money to PSF. They can be verified in 5.2.15 to 5.2.18 of KPMG report which clearly shows that there was no violation of Article 3.

Pg No: 39 in KPMG report clause 5.2.6 (General Secretary of INP+ said that the 8% was considered INP+ own funds) would be considered. INP+ categorically stated that the overhead / management cost was INP+ own fund.

3. 8% overhead/management fees

The KPMG report pg.38, 5.2.5 clearly admits that Global Fund did not provide any clear guidelines for overhead/management cost during the implementation of ACT and PACT program

During the investigation at Pune PSF Office, Mr. Andrew Mc Loughlin, OIG investigator admits that "There is two schools of thought for overhead / management cost

1. Overhead / Management Cost is considered as Organisation's own cost to implement the program
2. Overhead / Management Cost has to be utilized for the program".

3. Violation of Article 19

In this regard INP+ had amended the byelaw during the 14th AGM dated 10 Feb 2011 held in Guwahati on "Conflict of Interest and Independent Board Members"

FORENSIC REPORT BY ERNST AND YOUNG

1. The scope and approach limitation is self explanatory in saying that their findings cannot be taken to be exhaustive.
2. The finding of the forensic report 5.1.2 is completely baseless and not on actual facts but based on only assumptions and interpretations convenient to the OIG. There was an

opening balance and utilization of the grant shown in the expenditure report was also conveniently omitted. The contents of the table were picked and chosen according to OIG's convenience. Moreover, in the first two years of the Round 4 implementation, INP+ had not charged any overhead /management cost separately.

We would like to request that our interim comments already submitted on the OIG Report may be read as part and parcel of these comments.

We would like to request OIG to consider our comments in order to avoid the conceptual damages of INP+, PSF and respective individuals who dedicate themselves in bringing the PLHIV movement to this level in India. The findings of your investigation report B 2, C, D, E, G, H and I are not relevant to the purview of your enquiry. Kindly omit these findings from your report.

INP+ is not bound to satisfy OIG's infinite inquisitiveness about PSF. Kindly note that not to expose any internal confidential documents of INP+ and PSF such as minutes of the meeting, bank statements, vouchers etc. which can affect the organization's privacy of a community based organization like INP+ and PSF. We kindly request OIG to restrict the report only on GF R4 & R6.

XXXXXXXXXXXXXXXXXXXXXXX

ANNEX 3: CCM INDIA'S COMMENTS

From the Draft OIG Report:

Draft OIG Report Page 5 para 1 - executive summary

I OIG in its executive summary has mentioned in the first para on pg5 –

“The OIG was first notified of allegations of financial mismanagement within INP+ in March 2010. OIG in the months that followed, the OIG – at the Global Fund Secretariat's and Country Coordinating Mechanism's (CCM's) request - deferred its own investigation, pending an independent fiduciary review of INP+ by an audit firm selected by the CCM. This fiduciary review confirmed that INP+ violated the relevant grant and sub-grant agreements by transferring grant funds to a closely affiliated organization, Positive Support Fund (PSF), which failed to use these monies for program related purposes. However, lacking a forensics component, the review was not able to determine: 1) the full amount of loss to the Global Fund; 2) all of the parties responsible for the loss; 3) a full account of their acts and uses of funds; 4) the location of the misappropriated and remaining funds; and 5) and identify recoveries. ”

II Draft OIG report page 11 – pt.23, 24,25

23. The CCM Working Group and the Global Fund Regional Team requested that the OIG defer conducting its own investigation until an audit firm selected by the CCM had completed its review. In May 2010, the OIG learned that the audit to be performed by the PR audit firm would not include a forensics component. The OIG expressed its reservations that any audit without a forensic component would be insufficient to identify the full extent and nature of fraudulent activities, the individuals responsible, and the full amounts misappropriated, and that such an effort therefore should not be paid for out of grant funds. Nevertheless, the audit proceeded without a forensics component, and US\$ 50,000 of grant funds was paid to an external firm to complete the work.

24. In October 2010, the auditor submitted its final report to the CCM and the Global Fund. The auditor's report found evidence of transfers from various INP+ bank accounts to PSF, a closely-related entity, —in the range ofll US\$ 1.09 million. The report stated that these transfers from INP+ to PSF were not program-related and thus in violation of the grant agreement between PFI and INP+. However, according to the report, the exact amount of Global Fund grant funds transferred from INP+ to PSF could not be calculated without a detailed analysis of bank transactions, which was outside of the auditor's mandate.Despite the audits findings, neither the PR, nor the CCM, required the funds to be repatriated by PSF, and the individual responsible for the transfers remained in senior positions in both organizations, the SR (INP+) and PSF.

25. Given the shortcomings in the audit and lingering questions about fraud, abuse and mismanagement within INP+ and PSF, in February 2011, the OIG launched its own investigation. The investigation focused upon the transfers from INP+ to PSF, and made the investigation a priority in the office so as to disrupt grant management to the least extent possible.

India CCM's Response to contents in pg 5 & 11-

The issue of financial mismanagement of INP+ was raised in the CCM meeting of 27th Jan 2010. CCM was very proactive in establishing a working group immediately to investigate the matter over Feb-Apr 2010. At the 4th May 2010 CCM meeting, it was decided by CCM that an independent audit was required to explain or dismiss the allegations of financial mismanagement of INP+. Hence an independent audit of INP+ and 9 SLNs was recommended. All the preliminary investigations and CCM discussions on the matter were shared with GFATM from the very start. As funds were not available with CCM, GFATM was requested to release PFI Grant money to hire and conduct an audit of their SR- INP+. The TOR of the audit firm and selection of the audit firm was all approved by the GFTAM.

OIG responded in May 2010, expressed a desire to investigate the matter further and asked CCM and PFI to submit all the documents to OIG which CCM did. In June 2010, OIG expressed reservations about CCM conducting the audit but CCM did not want to lose time and as part of its oversight responsibility, communicated to GFTAM that an audit should be conducted to which GFTAM agreed. The TOR of the audit and the selection procedure of the audit firm were all approved by GFTAM. CCM never requested OIG to defer its own investigation. OIG themselves expressed their right to initiate their own investigations at a later date. Audit commenced on 5th Aug 2010, and was completed by 8th Oct 2010.

When the audit report was to be discussed with CCM by KPMG, OIG insisted to KPMG that the draft report should be shared with them and only the CCM chair and working group as it would hamper further investigation. Hence the draft audit report was shared on 8th Oct 2010 with a select few people and CCM discussed the report only on 22nd Oct 2010 without having received a copy of the report earlier. Even the final audit report of KPMG has not be made public by CCM till date as OIG insisted that it should not be made public as per the GFATM and OIG policy. It was also stated by OIG that as KPMG is being paid from Grant funds, the audit

falls within the remit of the OIG and the report is within the authority of the OIG.

In fact the audit conducted by KPMG was in full concurrence with OIG. KPMG audit was a fiduciary audit and was never supposed to be a forensic audit. The ToR of the audit was shared with GFTAM and it was undertaken with GFTAM concurrence and Grant money. It is incorrect to say that report was inadequate. KPMG audit was successful in its objectives with no shortcomings and which also formed a basis for OIG to further initiate forensic investigation. This is further corroborated by OIG's Evaluation pt 133 page 52 which states the following-

“Lastly, both the CCM audit and the OIG forensic review conclude, unequivocally, that Global Fund grant money was involved in the transfer of funds from INP+ to PSF.”

Several emails were exchanged with GFATM and OIG on the individual roles and responsibilities of CCM and the communication channels with OIG when such a situation arises but did not receive clarity. Over the course of these investigations, it was repeatedly enquired from OIG, what are the individual roles and responsibilities of OIG and CCM in the matter as to who decides what needs to be done and how it can be better coordinated with GFATM. Although CCM engaged and informed GFTAM at every step, but were told that OIG would lead while CCM needed to follow OIG instructions, hence this severely undermined CCM's oversight role. Also OIG took a long time to start its investigation in Feb 2011 after having been informed in early 2010 about this issue. OIG shared with CCM the preliminary findings in Apr 2011 and promised to release the report in 3 weeks i.e. May 2011. Finally the draft report has now been shared in Oct 2011. All these events have restricted CCM in taking any steps to move forward on this issue.

We would like to further state that CCM has no legal authority to recover funds from PSF hence inclusion of CCM here is not justified in this point. This is squarely the responsibility of the PR with whom GFATM Secretariat has always dealt directly. Further CCM is not a legal entity, therefore, it cannot legally do proceedings like recovery etc. In the CCM meeting of 16th Aug 2011, the proceedings of which were sent to GFATM Secretariat,

it has been sought to be clarified as to which powers the GFATM Secretariat will delegate to the CCM in future.

Thus it is clear that India CCM has played an exemplary role of proactive oversight and kept the GFATM Secretariat (which is the empowered Agency in this case) briefed from the beginning.

From the Draft OIG Report:

III Draft OIG report para – IX Recommendations- pg 62, pt. 178-

"As a result of its investigation, the OIG recommends that the Global Fund Secretariat, with the support from the CCM, immediately:

A. Seek to recover from the Principal Recipient, INP+ and PSF, jointly and severally, all outstanding losses, amounting to at least US\$ 872,000 and as much as US\$ 1.28 million, that the Global Fund and the grant programs suffered as a result of the transfer of grant funds to PSF and the improper activities and uses of funds by Mr. Abraham and others in INP+ and PSF, in violation of the grant agreement

G. Require that LFAs, CCMs and other fiduciary control bodies verify the use of overheads charged to the Global Fund grants and require and ensure such funds are truly used for program related purposes."

India CCM's response to contents of page 62:

Again CCM would like to clarify that CCM has no legal authority to recover from PR, INP+ and PSF the outstanding losses. It is also not possible for CCM to verify the use of the overhead charges to the GFTAM grants under its oversight role. It is however suggested that as PFI is the PR, who selected INP+ as its SR to implement the program activities on its behalf, PFI should take on the responsibilities for the activities of the SR. Also there should be enhanced LFA monitoring of SRs who are implementing the grants.

ANNEX 4: THE SECRETARIAT'S ACTION PLAN



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Chemin de Blandonnet 8
1214 Vernier, Geneva
Switzerland

MEMO

Date 10 October 2011

To John Parsons, Inspector General

From Mark Eldon-Edington, Director of Country Programs

Subject Country Programs Action Plan in response to recommendations found in the Global Fund's Office of the Inspector General "Final Report of Investigation of India HIV/AIDS (Rounds 4 and 6) Funds Transferred to the Positive Support Foundation (PSF)"

Dear John

Many thanks for sharing on 6 September 2011 the draft Report GF-OIG-11-004 and, last week, the associated recommendations stemming from the investigation by the Office of the Inspector General (OIG) of the non-governmental organization and Round 4 HIV RCC sub-recipient (SR), the Indian Network of Positive People (INP+), and its transfer of Global Fund-provided monies to its affiliated Positive Support Fund (PSF). The Global Fund Secretariat fully supports both the investigation and its main findings. We will vigorously pursue recovery of losses sustained by the Global Fund and its grant program through a series of steps aimed at preserving the integrity of our investment in India's national response to HIV/AIDS, as outlined below. As you have requested, we are pleased to share with you this response today.

INP+ was formed in 1997 and is registered under the Tamil Nadu Societies Act. It has 22 state and 235 district level networks in India with a membership of roughly 1 to 1.3 million people living with HIV (PLWH). INP+ focuses on advocacy, network building and services for PLHAs. Its members represent marginalized sections of the society. Its primary emphasis is on ensuring that anti-retroviral therapy is available on a continuous basis for PLWH. INP+ has aligned its work within the larger framework of National AIDS Control Organization (NACO) which aims to provide prevention, treatment and care & support through community based organizations.

Allegations of financial mismanagement first surfaced during 2009 through letters from INP+ members denouncing corruption at the central level of the network. The Board members and some members of the State Level Networks complained that money intended for overhead use was misdirected by the President of the organization and his accountant.

The OIG was made aware of the allegations as they surfaced in late 2009 and was involved and consulted at each step in the process.

Report GF-OIG-11-004 lays out the documented violations by the management of INP+ of the standard terms and conditions (STCs) of the Global Fund's grant agreements with the Principal Recipient (PR), Population Foundation of India (PFI), and related sub-agreements between PFI and INP+. In response to these findings, communicated in preliminary form early in 2011, the Global Fund Secretariat released a management letter to PFI on 27 June 2011 (Attachment 1). PFI and INP+ responded to this letter with an action plan for the ongoing Round 4 HIV RCC grant (Attachment 2), outlining certain steps underway to address the Secretariat's concerns.

It has come to our attention over the past week, through direct conversations and by email, that INP+ Chair K.K. Abraham has not fully recused himself from matters relating to the Global Fund-supported program to date (see Attachment 3 – MoU between INP+ and WPLHS+ signed by Mr Abraham; and Attachment 4 – email trail between the FPM and PFI regarding the PACT program and recusal of Mr Abraham). This development has heightened the Secretariat's concerns about INP+'s ability to take the corrective actions necessary to enable it to implement a Global Fund-supported grant. In response, the Secretariat has not authorized PFI to enter into a new sub-agreement with INP+. Moreover, we have urged PFI to disassociate itself from INP+ pending resolution of the Global Fund's concerns about the latter's use of Global Fund resources.

Therefore, following release of the OIG report and upon clarification of certain questions requested by the Legal Unit, the Secretariat will immediately undertake the following measures:

1. The Secretariat will acknowledge the steps taken and documented by PFI to address the action points in the Global Fund's management letter of 27 June 2011, noting that this represents partial progress toward resolving the outstanding issues raised in the OIG report.
2. The Secretariat will undertake strong action to recover all outstanding losses that the Global Fund and the grant program has suffered as a result of the transfer of grant funds to PSF and the improper activities and uses of funds by Mr K.K. Abraham and others in violation of the grant agreement.
3. We will insist that if PSF is not able to return all the Global Fund grant funds transferred to it by INP+, PFI should ensure that PSF immediately liquidate or transfer to PFI the properties that it purchased with grant funds.
4. We will condition the Global Fund's continued relationship with PFI on the latter's insistence on immediate termination of Mr K.K. Abraham's association with INP+, should that organization wish to remain a sub-recipient of the Global fund grant program. Failing that, we will require PFI to make alternate management arrangements for implementing positive support programs with grant resources.
5. The Global Fund Secretariat will permit PFI to reengage with INP+ only following clear demonstration that INP+ has:

- a. Reimbursed the Global Fund via PFI for the losses to the Grant;
- b. Removed Mr Abraham from the organization and barred his future involvement in the organization;
- c. Held to account all other individuals named in the OIG report as culpable for fraudulent activities;
- d. Submitted for review and approval by the Global Fund a well-defined sub-sub recipient (SSR) oversight plan;
- e. Implemented the aforementioned SSR oversight plan; and
- f. Implemented a robust system of internal controls to prevent future fraud and abuse.

6. We will condition future disbursements to the PR on the existence of dedicated Global Fund accounts at both PR and SR levels so as to prevent future co-mingling of funds.

7. When the remit of the Global Fund Sanctions Panel covers grant recipients, the Secretariat will ask PFI to refer PSF and Mr Abraham to the Global Fund Sanctions Panel for debarment proceedings, or INP+ itself should Mr Abraham remain with the organization. We note that the Sanctions Panel is intended to cover grant recipients, but only after a Code of Conduct for Recipients has been issued. The latter is still in process.

8. Should PFI be unable or unwilling to implement the steps called for above, the Global Fund reserves the right to exercise all remedies available to it under the Grant Agreement, including changing the Principal Recipient for Grant IDA-405-G05-H RCC.

The Secretariat will implement the above steps immediately following release of the OIG report with a view toward satisfactory resolution of this issue by 31 December 2011.

Abbreviations

ACT	Access to Care and Treatment
ARV	Anti-Retro Viral
CCM	Country Coordinating Mechanism
DLN	District Level Networks
FCRA	Foreign Contribution Regulation Account
FPM	Fund Portfolio Manager
HDRN	HIV and Human Development Resources Network
HIV	Human immunodeficiency virus
INP+	Indian Network for People Living with HIV/AIDS
INR	Indian National Rupee
LFA	Local Fund Agent
MoA	Memorandum of Association
MoU	Memorandum of Understanding
NGO	Non-governmental organization
NMP+	Network of Maharashtra People with HIV
OIG	Office of the Inspector General (of the Global Fund)
PACT	Promoting Access to Care and Treatment
PFI	Population Foundation of India
PLC	Positive Living Centres
PLHA	People Living with HIV/AIDS
PR	Principal Recipient
PSF	Positive Support Fund
RCC	Rolling Continuation Channel
SLN	State Level Networks
SR	Sub-Recipient
SSR	Sub Sub-Recipient
STC	Standard Terms and Conditions
TCC	Treatment Counseling Centres
UPNP+	Uttar Pradesh Welfare for People Living with HIV/AIDS Society
US\$	United States Dollar