

# Charities in the Courtroom, Part 6: Audacious Embezzlement

05.23.17 | Linda J. Rosenthal, JD



So far in this series about litigation involving charities, we've focused on civil cases. Here, we remind you that nonprofits are also involved in criminal matters – if only peripherally – as the injured parties. Unfortunately, these two examples are just a drop in the bucket of the far-too-many examples of good organizations fleeced by bad people.

## *Garden Variety Fraud by Nonprofit's Office Manager*

Mountain States Justice is a nonprofit legal aid organization in West Virginia, which “opened its doors in 1996 to pursue impact and significant litigation on behalf of low-income” residents. It has “represented West Virginians in class actions and individual cases against unscrupulous lenders, brokers, and finance companies” and to “combat aggressive and illegal debt collection tactics used by third-party junk debt buyers...” It has also worked “to provide access to necessary health care and compelling compliance with laws seeking to protect our youth, disabled, and institutionalized citizens.”

Kim Cooper of St. Albans started working at Mountain States Justice in the late 1990's, doing what was described as “clerical work.” Her responsibilities grew over time and eventually, she became the office manager at the organization's headquarters in Charleston.”

Co-workers were astonished when, in late December 2016, Ms. Cooper was charged with federal wire fraud and tax evasion. According to court filings, her scheme apparently began in 2004 and continued for years. Ms. Cooper “hid her criminal activity in many ways,” noted the federal prosecutor on her case.

She opened a secret bank account in the nonprofit's name, kept the checkbook and had sole signature authority. Diverting some checks – mailed or delivered to Mountain States Justice – she

then deposited them in the secret bank account, wrote checks to herself and a family member, and finally deposited these “Mountain States Justice” checks into a personal bank account at a separate financial institution.

To further her covert activities, Ms. Cooper omitted the attorneys’ fees checks from the organization’s books and records, and his all incoming mail from the first bank. She also created fraudulent quarter income statements and emailed them to the organization’s board of directors. On the checks themselves, this defendant made false notations – like “payroll,’ conference/expenses,’ travel, or a bonus,” as well as other notations that gave the impression that her close relative was employed by Mountain State Justice.

In total, over a period of about 12 years, this trusted employee stole some \$1.5 million from a legal services organization formed to combat fraud by others.

### *Father-Son Duo Commit More Flamboyant Fraud*

Compared with the somewhat low-key – albeit successful – embezzlement of Kim Cooper from West Virginia’s Mountain States Justice, federal prosecutors in Minnesota had a more notorious duo on their hands who preyed for many years on Community Action of Minneapolis, a nonprofit that had provided key services to low-income residents of the area.

While the case against the West Virginia embezzler is just beginning, this second scheme is now coming with a stiff prison sentence expected for nonprofit leader William Davis and a 2-year sentence imposed in late January on his son, Jordan Davis, a former Minneapolis police officer. William Davis was a community leader, having run the prominent midwestern nonprofit for 24 years. He was indicted in 2015 for having “spent taxpayer grants on a personal car, exotic trips and perks for friends and relatives.”

In a nutshell – according to the U.S. Attorney’s office,

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*Over the course of eight years, William Davis stole and conspired with his son to steal over \$450,000 from Community Action of Minneapolis – money that should have been used to provide heating, energy assistance and family services to low-income people in Minneapolis...Instead, Davis used his position to wine and dine girlfriends in two different countries, to pay for travel for himself and family members and to buy things he wanted because he felt he was entitled to do it and he knew no one would stop him.*

Eventually, the elder Davis pleaded guilty and “said ‘guilty, your honor’ 16 times” in mid-2016 “for each count of misusing taxpayer money or conspiring to defraud” the nonprofit organization. “The evidence of fraud was overwhelming,” said U.S. Attorney Andrew Luger, “and the defendant’s guilty plea to all of the charges against him is a just result.” There was no deal struck as to a possible

sentence and he “faces the possibility of decades in prison and steep fines.” According to earlier news reports, there had been “questions raised for years” about the organization’s spending and “[d]espite warnings,” the state had “kept cash flowing to” the “controversial nonprofit.”

The younger Davis –

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*had managed a Ben & Jerry’s ice cream shop in Minneapolis funded by the nonprofit from 2002 to 2006. Prosecutors said he left after that to become a Minneapolis police officer but still received payments from the nonprofit totaling \$140,000 over four years for what was a “no-show” job at the ice cream shop.*

During the trial, Jordan Davis took the stand “to deny that the \$34,000 a year gig was a “no-show” job and that he’d “served as a consultant available on 24/7 call to respond to emergencies and do technical support while being employed full time as a Minneapolis police officer.”

In imposing the two-year sentence on the son, Federal judge Patrick Schiltz characterized him as a “minor participant” in the elder Jordan’s fraud scheme.

As to the fate of William Davis, the flamboyant father in this family drama, federal prosecutors have now asked for a nearly six-year prison sentence and restitution (along with his son) of some \$450,000.

From the department of “extraordinary chutzpah,” Davis, Sr. has argued that he should receive a sentence of just one year. According to his counsel, the elder Davis –

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*will continue to bear the consequences of his actions as a convicted felony, particularly in his inability to continue his work in the non-profit sector and political activism, regardless of the sentence imposed by the court.*

Due to the significant losses and damage caused by this massive fraud scheme, Community Action of Minnesota had to close its doors.

Update: William Davis was sentenced on May 12, 2017 to four years in prison. The judge rejected the plea for a light sentence, explaining that Davis ... “was stealing from the poorest of the poor.”

## Conclusion

In each of these two cases, the embezzlements were carried out for many years, with wholly inadequate safeguards in place.