



The City of New York
Department of Investigation
ROSE GILL HEARN
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MONDAY, DECEMBER 10, 2012**

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**DOI RELEASES FINDINGS ON EMBEZZLEMENT SCHEME INVOLVING FORMER FISCAL OFFICER
AT TWO PUBLICLY FUNDED NONPROFITS IN THE BRONX**

ROSE GILL HEARN, Commissioner of the New York City Department of Investigation ("DOI"), released its findings of a DOI investigation conducted in conjunction with the office of New York State Attorney General Eric T. Schneiderman that resulted in the unsealing today of a superseding indictment against a former fiscal officer at two publicly funded nonprofits serving the Bronx on charges of embezzling charitable funds. CLEMENT GARDNER, 65, of the Bronx, a former fiscal officer at Christian Community in Action Inc. ("CCIA") and Christian Community Benevolent Association ("CCBA") was charged today with two counts of Grand Larceny in the Second Degree, a class C felony, and six counts of Falsifying Business Records in the First Degree, class E felonies, in connection with stealing approximately \$560,000 in charitable assets. The indictment unsealed today supersedes an indictment filed earlier this year related to funds taken from CCBA. The case is being prosecuted by the office of New York State Attorney General Eric T. Schneiderman. A copy of DOI's findings is attached to this release.

DOI Commissioner Rose Gill Hearn said, "The public funds that went to these nonprofits were to better the Bronx community they serve, not to profit their fiscal officer, as charged in the indictment. DOI investigators analyzed fiscal records and worked with the state Attorney General to find hundreds of thousands of dollars embezzled during this scheme. DOI will continue to work with its law enforcement partners to expose and stop the theft of taxpayer funds intended to help some of the neediest in New York City."

Commissioner Gill Hearn thanked New York State Attorney General Eric T. Schneiderman and HRA Commissioner Robert Doar and their staffs for their cooperation and assistance in this investigation.

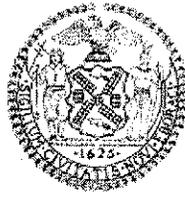
Assistant Attorney General Simon Brandler was assigned to this case, and was assisted by Assistant Attorney General Wanda Perez-Maldonado, under the direction of William E. Schaeffer, Chief of the Public Integrity Bureau.

The above investigations were conducted by DOI's Not-for-Profit / Vendor Fraud Unit.

An indictment is an accusation. A defendant is presumed innocent until proven guilty.

DOI is one of the oldest law-enforcement agencies in the country. The agency investigates and refers for prosecution City employees and contractors engaged in corrupt or fraudulent activities or unethical conduct. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City.

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Get the worms out of the Big Apple. To report someone ripping off the City, call DOI at (212) 825-5959.**



**The City of New York
Department of Investigation**

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December 10, 2012

Robert Doar
Commissioner
New York City Human Resources Administration
180 Water Street
New York, New York 10038

Re: Christian Community In Action, Inc.

Dear Commissioner Doar:

The New York City Department of Investigation (“DOI”) has conducted a joint investigation with the New York State Attorney General’s Office (“AGO”) relating to Christian Community In Action (“CCIA”), a Bronx-based not-for-profit organization, incorporated on December 21, 1979, that provided home attendant services for Medicaid eligible individuals from Fiscal Year 2002 through Fiscal Year 2012. CCIA held City contracts with the New York City Human Resources Administration (“HRA”) from July 1, 2001 through December 31, 2007 for a total of \$20,624,637. CCIA continued to receive funding from New York State and the federal government until Fiscal Year 2012, and ceased active operations at the end of 2011.

Background

DOI began this investigation upon receipt of a referral from HRA in April of 2012, alleging fraud by Clement Gardner, a fiscal officer of CCIA.¹ At the time of the referral, Gardner was already under indictment by the AGO for one count of Grand Larceny in the Second Degree for embezzling funds from Christian Community Benevolent Association

¹ On November 7, 1994, Gardner was hired as fiscal officer of CCIA and was promoted to Assistant Director of Administration on or about November 1, 2011.

“CCBA”), for which Gardner was also a fiscal officer.² As a fiscal officer of both CCIA and CCBA, Gardner managed these entities’ finances, maintained their expense records, and administered their bank accounts.³ Among other responsibilities, Gardner also maintained a check register associated with CCIA’s administrative account, and managed a voluntary joint savings plan for CCIA employees called, “Society of Savers.”⁴

DOI’s Investigative Findings

DOI conducted a forensic analysis of CCIA’s financial records, including CCIA’s check register associated with the administrative account, bank statements, canceled checks, and general ledgers covering the time period of July 2006 through February 2012. DOI’s analysis consisted of a detailed comparison of the checks listed on the check registers for CCIA’s administrative account with the corresponding canceled checks and bank statements. The dollar amounts for 95 different checks – as listed on the check registers – were lower than the actual dollar amounts on each negotiated check. Gardner misrepresented the payee, the purpose, and the amounts of the checks in the check register. The entries in the check register maintained by Gardner concealed the fact that a total of approximately \$671,628.06 was issued from CCIA’s administrative account, even though the corresponding checks in the check register only totaled approximately \$64,969.37. By examining each of the 95 canceled checks that corresponded to the false entries in CCIA’s check register, DOI determined that \$359,465.83 was issued to CCBA, \$170,667.97 was issued to Society of Savers, and \$141,494.26 was issued directly to Clement Gardner. Additionally, DOI discovered that the two signatures on each of the 95 checks appeared to be from a signature stamp as opposed to live signatures.

Conclusion

DOI’s findings, in conjunction with the AGO’s investigation, determined that from December 31, 2003 to September 15, 2011, Gardner directed approximately \$291,000 in

² On March 8, 2012, the AGO indicted Gardner for Grand Larceny in the Second Degree for stealing at least \$75,000 from CCBA. CCBA is a Bronx-based not-for-profit organization, incorporated on September 28, 1977, which provides services and recreation programs for the community. CCBA held State contracts with NYS Office of Children and Family Services (discontinued as of June 30, 2008) to assist children in need of school supplies and with NYS Department for the Aging to provide music, food, and chairs for communities annual street fairs. CCBA also held City contracts with the New York City Department for the Aging from July 1, 1996 through June 30, 2005 for a total of \$4,181,099 to provide senior services. Both CCBA and CCIA operated from the same location at 910 East 172nd Street, Bronx, New York.

³ On or about October 18, 2012, DOI received from HRA a copy of the Fiscal Year 2009 audit report of CCIA, prepared by Allan S. Joseph, Certified Public Accountant, who was hired to audit CCIA for Fiscal Years 2009, 2010, and 2011. A review of the Fiscal Year 2009 audit report shows that on page 13, “Notes to Financial Statements,” “Note 24 - Related Parties,” the auditor failed to disclose Gardner’s role as a fiscal officer of both CCBA and CCIA. CCIA’s IRS Form 990 for Fiscal Year 2009 discloses CCBA as a related tax-exempt organization in Schedule R, Part II. Instead, Note 24 of the Fiscal Year 2009 audit report states more limitedly, “The agency has indicated to us that there were no transactions with persons who are related to individuals (employee) involved in the program.”

⁴ Society of Savers was a savings plan for CCIA employees, funded by voluntary contributions from participating employees who received periodic payouts equivalent to the amounts they had contributed.

unauthorized payments from CCBA accounts to himself; from August 27, 2010 to November 26, 2011, Gardner directed approximately \$128,000 in unauthorized payments from Society of Savers account to himself; and from January 4, 2008 to February 8, 2012, Gardner directed approximately \$141,000 in authorized payments from CCIA's administrative account to himself. Thus, as a fiscal officer of both CCBA and CCIA, Gardner wrongfully converted approximately \$560,000 in charitable assets to his own benefit.⁵

On December 10, 2012, as a result of the above findings, Gardner was arraigned on a superseding indictment, charging him with two counts of Grand Larceny in the Second Degree and six counts of Falsifying Business Records in the First Degree. The case is now pending in New York State Supreme Court, Bronx County.

Recommendations

Based on the results of this investigation, DOI makes the following recommendations to HRA:

- HRA should remind its contractors in writing that there should be a segregation of duties within the fiscal department as it relates to writing checks, posting entries in the check register, and performing bank reconciliations.
- HRA should notify its contractors in writing that at least one live signature – as opposed to a signature stamp – should appear on all checks issued by the contractor.
- HRA should request that when its independent auditors conduct audits of HRA's contractors, the auditors should cross reference canceled checks against the check registers and bank reconciliations to determine whether there are any discrepancies and to ensure the validity of the contractors' books and records.
- HRA should ensure that, prior to the issuance of final audit reports of HRA's contractors, the notes to the financial statements of the audit reports accurately reflect the financial operations of the contractors, including the existence of related parties.

⁵ CCIA's Fiscal Year 2009 audit report states that there was a \$76,335 difference between the amount of checks that cleared the bank and the amount of checks per CCIA's check register. Furthermore, the audit report states that since CCIA "failed to provide us with a representation letter attesting to the integrity of the financial statement and the assertions made by management and its internal control structure, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on these financial statements." DOI has not received from HRA the audit reports for CCIA for Fiscal Years 2010 and 2011.

DOI is referring this mattering to you for your review and any further action you deem appropriate. We are also referring our findings to the Mayor's Office of Contract Services. If you have any questions or wish to discuss this matter in more detail, please feel free to contact me at (212) 825-6859.

Sincerely,



Chanterelle Sung
Inspector General

cc: Andrea Glick, Director, Mayor's Office of Contract Services