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True Stories of Fraud

It Can Happen to You

By Rebekah Darcy Mulhare

You are about to read tales of greed and corruption, costly incompetence and outright thievery. There is even a little sex and gambling thrown into the mix. Stories from television soap operas? No, these are the days of our lives in the New York City real estate industry, where a series of indictments leveled at property managers, contractors and vendors last summer have rocked the professional community again. And for every name that you may have read in the papers, several more are under investigation. This is what it sometimes looks like when your hired hands have their fingers in the till.

Widescale Corruption

The most notorious of the current cases is Marvin Gold, president of Marvin Gold Management Co., Inc. in Brooklyn. According to Indictment #4706-99 from the Manhattan District Attorney's office, Gold received over $1.5 million in kickbacks from the vendors and contractors who served the buildings he managed. In June he was indicted on 14 counts including: three counts of grand larceny and five counts of commercial bribe receiving. Along with Gold, the company vice president, Jeffrey Gold (no relation) was indicted on 19 counts and accused of receiving over $200,000. Eight of Gold's property managers and one board member of a Gold-managed building were indicted for taking almost $1.3 million in kickbacks from vendors and contractors.

How did such wide-scale corruption and vast sums of money go unnoticed by the buildings in Gold's stable? How did this firm and all of the others committ these crimes? Carmen Lee Shue was a board member for six years at an Upper West Side condominium, managed by an indicted management firm. According to Shue, "I was a gadfly, challenging people, questioning everything." It is only because she no longer lives there, that Shue feels safe to tell the story. "If I didn't leave," she says, "someone would have killed me."

"There were problems with the building from the beginning," offers Shue. "I was not yet on the board, when a new board member spotted inconsistencies in the bills. She showed them to me." Shue then went on to compare the prices that the property managers were supposedly paying versus quotes from several other vendors. "In every case we were paying the highest dollar amount," Shue exclaims. "Why were we paying $36 for a towel rack, when I could purchase one at the hardware store next door for $4.99?"

According to Shue, after issuing a memo to shareholders detailing what she had found, including inappropriate bills from board members such as midnight taxi receipts, the whistle blower became the brunt of accusations by the board with a clear message to keep quiet. In 1994, Shue ran and was elected overwhelmingly to the board. What she found was a disaster. "There was no bidding system," details Shue, "The management company was always using the same two vendors, and truckloads of things were being ordered by the site manager and then mysteriously vanishing." The shareholders were receiving a maintenance increase each year and the building was on the verge of bankruptcy.

According to Shue, in her first six months on the board, the cost of supplies dropped dramatically. Shue claims that even after it became obvious that the managing agent was under investigation, the board was unwilling to fire him. In her quest for truth, Shue experienced harassment, and says she would find dead animals left on her doorstep.

Misuse of Funds

Shue is not alone in her role as the sole voice for honesty. One shareholder in a downtown co-op agreed to tell his story, but only anonymously. The co-op had been managed for 33 years by one of the management firms. "I serve on the board of sleeping [idiots]," says this board member. "The board president took over where the manager left off, and I had to get the D.A. to open a file on her before anyone would listen to me."

According to our source, this elderly woman had misused co-op funds and supplies, had building workers perform work on her country home and family member’s apartments on company time, and taken kickbacks of over half a million dollars. While most industry kickbacks amount to ten percent of the contract, this real life Livia Soprano has been known to extract 40 percent. "I believe the new management company knows, but they keep quiet," he says. "The board president once made the site manager kick back $2,000 on a $5,000 bonus. Everyone is afraid of her. She has been known to put nails in tires and once sent her goon of a grandson to threaten me." The case is currently under investigation.

Attorney Douglas Heller of the Manhattan law firm Friedman, Krauss & Zlotolow works for one cooperative corporation that was summoned to testify against their architect. According to Heller, "It seems that although the job was done very competently, this individual was fixing the prices. The bidders would all get together and decide who would have the lowest bid, one still significantly above market price. And the architect had a relative in the company he used."

"Borrowing" from a co-op building’s bank account may be more widespread than many shareholders imagine. Long Island C.P.A. Jay H. Barshat had several clients managed by another corrupt firm. Barshat says that in early 1994, the board treasurer of a Queens co-op came to him with questions about the bank account. Apparently, monies going in did not match money coming out. Barshat, along with the board member and an attorney, approached the agent. "She kept saying she didn’t have the bank statements," says Barchat. "Finally we got copies from the bank. It turned out there were many inappropriate disbursements, and she had opened a second secret account." In all, Barshat says he represented three out of at least five buildings that had been unwittingly subsidizing the managing agent’s schemes.

The first building was able to retrieve between $100,000 and $200,000 that had been misappropriated. Another building settled for $15,000. "Putting it together and finding the proof is difficult," says Barshat. "Buildings that weren't on top of it got left holding the bag."

Throwing Incompetence into the Mix

What happens when your managing agent is corrupt, and your accountant is incompetent? That is what happened at an Upper Westside Mitchell Lama HUD Cooperative. Steven Wagner, the managing partner of Manhattan law firm Wagner, Davis & Gold, represents the building. According to Wagner, the building had a series of inadequate managers who had failed at the extensive reporting which is required to receive Section 8 funding. Finally they hired another manager who, unbeknowst to anyone, was borrowing money from the co-op's accounts at the beginning of the month, and then returning it before the end of the month. "Then he started not having the money to put back in," relates, Wagner. "He started writing checks to the account that would bounce after the statements had gone out." According to Wagner, the board treasurer became suspicious and yet was pacified when he was told it was an accounting error. The board did however change the account to require dual signatures on checks.

According to Wagner, the managing agent then began wiring the money out of the account. Enter the incompetent accountant (who is no longer in business). When she discovered discrepancies in the account, she confronted the property manager, but was mollified by his promise "not to do it again." Unfortunately, this promise was broken, in the end to the tune of almost $200,000.

It was Wagner who began to unravel the corruption. "The lease on the garage came up," relates Wagner, "Wasserman said the board had approved the existing tenant and wanted to move quickly. This sent up a red flag for me." According to Wagner, the lease was 50 percent of market value. When he asked to see the other bids, the property manager showed the attorney bids that were obviously fake including one from "an operator who was out of business and in jail," says Wagner. The attorney's swift intervention enabled the building to negotiate a far more favorable lease. However, the accountant now became nervous enough to reveal what she knew about the agent's banking practices.

The building took the manager to court and ended up with a judgment that covered only their losses and not the legal fees. "The building spent a fortune and still hasn't recouped their money," adds Wagner. The case is under investigation by the district attorney's office now, three years after the fact. The treasurer who remained silent about his suspicions is no longer on the board.

Exercise Caution

"If a board doesn't practice due diligence that can cost shareholders a lot of money," says attorney **Adam Leitman Bailey of the Law Offices of Adam Leitman Bailey in Manhattan**. "A lot of buildings don't like using lawyers because they think it costs too much. Waiting until a problem is full-blown can cost much more."

"The problem is all boards serve without fees and it's a part-time job," says attorney Steven E. Rosenfeld of the Law Offices of Steven E. Rosenfeld in Manhattan, "They're relying on the honesty of these managing agents." It is typical for dishonest firms to quote unusually low management fees in order to get the business. "Pay people what's fair and you won't run into this issue," adds Rosenfeld.

"After the indictments, we have to constantly stay on top of these issues," recommends Shue. "There needs to be a place that a board member can go and feel safe, and have an outsider look into things." In spite of her negative experience, the self-appointed "gadfly" says, "My example was the extreme. I want to encourage people who are frightened to go ahead and keep talking about the problems. I'm glad I did it, and I would do it again."