

Lessons Learned: Protecting the Trust's Assets from Misconduct

• *Stephen Dale and David Goldfarb*

• David Goldfarb, Senior Director, Strategic Health Resource Center at Jewish Federations of North America

• Stephen W. Dale, President of the Alliance of Pooled Trusts, Trustee - Golden State Pooled Trust



1

Lessons Learned: Protecting the Trust's Assets from Corporate Misconduct

• *Stephen Dale and David Goldfarb*

• **Program will**

- review the history of pooled trusts, how the Omnibus Budget Reconciliation Act of 1993 (OBRA 93) established statutory guidelines for self-settled trusts and created the self-settled pooled trust exception.
- The presenters will then examine several cases where breaches of fiduciary duty have taken place or were alleged over the past 3 decades since OBRA 93 was enacted.
 - In examining these cases, the focus will be on
 - what happened,
 - how it happened, and
 - where it went wrong.
- This session will then explore how do you communicate with your community, the beneficiary, and your referral sources.
- A major emphasis of this program will be on how the Alliance of Pooled Trusts is working to unite Pooled Trust providers in establishing best practices for the industry and collaborating with key stakeholder groups to better serve their communities and protect the vulnerable populations that they serve.

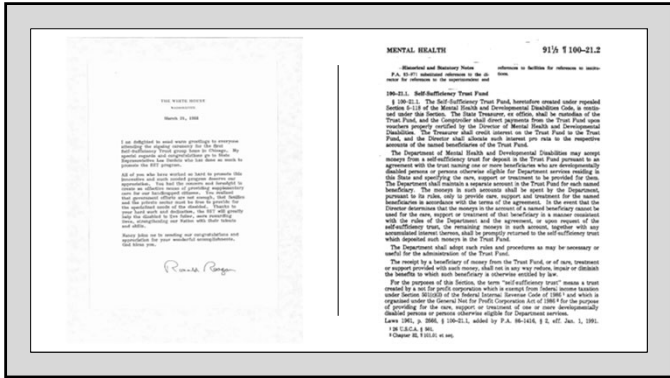
2

How Did We Get Here?

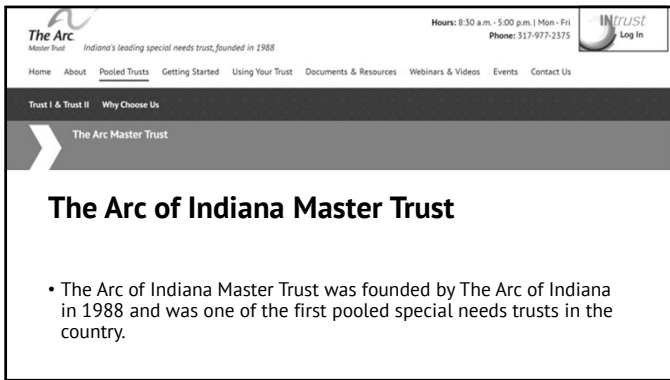
Stephen Dale and David Goldfarb



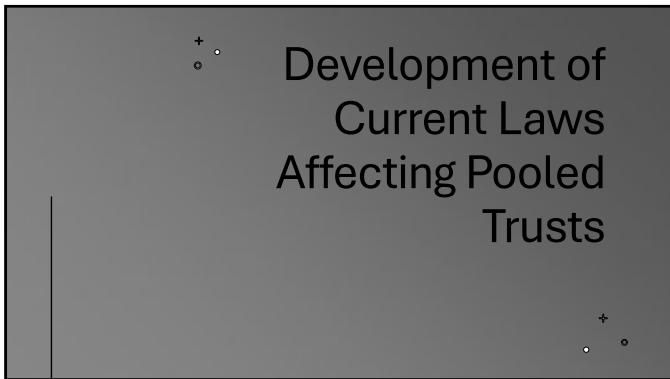
3



4



5



6

SI 01730.046 Transfer of Assets for Medicaid Purposes

- From March 1, 1981 through June 30, 1988, a transfer (i.e., giving away or selling) of nonexcluded resources for less than fair market value(FMV) resulted in the individual being charged with the difference between the FMV of the resource and the amount of the compensation received (i.e., the uncompensated value) for a period of 24 months from the date of the transfer. Loss of SSI eligibility because of such a transfer could also cause a loss of Medicaid eligibility in those States in which Medicaid eligibility results from SSI eligibility.
- From April 1, 1988 through June 30, 1988, the penalty for transfers could be waived because of undue hardship.
- The 1981 - 1988 transfer rules are explained in SI 01150.100; the exception to those rules, rebutting the presumption of the reason for the transfer, is explained in SI 01150.120 — SI 01150.127.
- Starting July 1, 1988, transfers of resources only affected eligibility for certain Medicaid services, not for SSI. (See SI 01150.110 for a description of the provision that went into effect on July 1, 1988.)
- The Medicaid transfer rules have been broadened and clarified effective October 1, 1993. However, they only have a direct effect on Medicaid, not SSI eligibility.

7

SI 01730.046 Transfer of Assets for Medicaid Purposes

- **March 1981 - June 1988**
- SSI ineligibility for up to 24 months based on counting the uncompensated value of the transferred resource would result in ineligibility for Medicaid if eligibility for Medicaid was based on SSI eligibility. Application of this rule was subject to a rebuttable presumption, and beginning in April 1988, a potential waiver for undue hardship. Medicaid also had its own transfer penalty that was optional for States.
- **2. July 1988 - September 1993**
- **a. Policy**
- Disposal of resources at less than FMV could affect eligibility for certain Medicaid services for up to 30 months from the date of transfer. Transferred resources reviewed under this provision would not be countable for SSI purposes.
- **b.**
- **c. Effect of Transfer**
- A transfer could result in a State Medicaid agency deciding that an individual was not eligible for nursing facility level services for a period of time. However, the Medicaid agency could not impose a penalty if the transfer qualified for an exception listed in the statute, e.g., if the penalty would work an "undue hardship." The State agency determined the period of ineligibility by dividing the amount of the uncompensated value of the transfer by the average monthly nursing home cost in the State or locality. The period of ineligibility for nursing facility level services could not exceed a cap of 30 months. **This rule remains in effect for transfers which occurred before August 11, 1993.**

8

COBRA 85 Treatment of potential payments from Medicaid qualifying trusts. Social Security Bulletin, August 1986NoI. 49, No. 8

- The new law specifies that for purposes of Medicaid eligibility, payments that may be made from qualifying trusts (as defined in the provision) would be considered available to individuals who established the trust whether or not the payments are actually made. The amount deemed to be available to the beneficiary is the maximum amount of payments that may be permitted under the terms of the trust, assuming full exercise of discretion by the trustee. The provision is effective with respect to medical assistance furnished after May 1980.
- A "Medicaid qualifying trust" is defined as a trust or similar legal device established by an individual (or his or her spouse) under which the individual is the recipient of all or part of the payments from the trust and the amount of such distribution is determined by one or more trustees who are permitted to exercise any discretion with respect to the amount to be distributed to the individual. The provision applies (1) whether or not the trusts are irrevocable or are established for purposes other than to enable the trust recipients to qualify for Medicaid, and (2) whether or not the trustees actually make payments to the full level of their discretion.
- The provision affects only eligibility for Medicaid, not eligibility for SSI or AFDC, and applies only to those Medicaid recipients who are not receiving cash assistance payments (not categorically eligible for Medicaid).



9

Medicare Catastrophic Coverage Act of 1988 (MECCA 88)

- (b) TAKING INTO ACCOUNT CERTAIN TRANSFERS OF ASSETS.—Subsection (c) of section 1917 (42 U.S.C. 1396p) is amended to read as follows:
- "In order to meet the requirements of this subsection (for purposes of section 1902, the State plan must provide for a period of ineligibility in the case of an institutionalized individual (as defined in paragraph (3)) who, at any time during the 30-month period immediately before the individual's application for medical assistance under the State plan, disposed of resources for less than fair market value. The period of ineligibility shall begin with the month in which such resources were transferred and the number of months in such period shall be equal to the lesser of—
- "(A) 30 months, or the total uncompensated value of the resources so transferred, divided by (ii) the average cost, to a private patient at the time of the application, of nursing facility services in the State or, at State option, in the community in which the individual is institutionalized.

10

Medicaid Qualifying Trust (MQT)

- Any non-testamentary trust, or trust like device established by the individual or spouse where the individual may be a beneficiary and the trustee has discretion regarding distribution would be considered available to the Medicaid applicant, regardless of the trust provisions.
- Supplemental Needs Trusts become a preferred approach

11

Treatment of potential payments from Medicaid qualifying trusts.

- The new law specifies that for purposes of Medicaid eligibility, payments that may be made from qualifying trusts (as defined in the provision) would be considered available to individuals who established the trust whether or not the payments are actually made. The amount deemed to be available to the beneficiary is the maximum amount of payments that may be permitted under the terms of the trust, assuming full exercise of discretion by the trustee. The provision is effective with respect to medical assistance furnished after May 1986.
- A "Medicaid qualifying trust" is defined as a trust or similar legal device established by an individual (or his or her spouse) under which the individual is the recipient of all or part of the payments from the trust and the amount of such distribution is determined by one or more trustees who are permitted to exercise any discretion with respect to the amount to be distributed to the individual. The provision applies (1) whether or not the trusts are irrevocable or are established for purposes other than to enable the trust recipients to qualify for Medicaid, and (2) whether or not the trustees actually make payments to the full limit of their discretion.

12

42 U.S. Code § 1396p - Liens, adjustments and recoveries, and transfers of assets

Pooled trusts existed in at least 30 states

Many required a percentage of the remainder to stay in the trust.

50% was the highest known at the time.

13

42 U.S. Code § 1396p - Liens, adjustments and recoveries, and transfers of assets

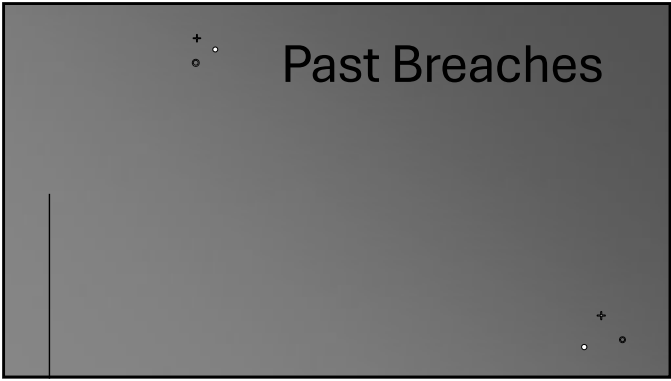
- (4) This subsection shall not apply to any of the following trusts:
 - (A) A trust containing the assets of an individual under age 65
 - who is disabled (as defined in section 1614(a)(3)) and
 - which is established for the benefit of such individual by the (individual), a parent, grandparent, legal guardian of the individual, or a court if
 - the State will receive all amounts remaining in the trust upon the death of such individual up to an amount equal to the total medical assistance paid on behalf of the individual under a State plan under this title.¹²⁵³

14

42 U.S. Code § 1396p - Liens, adjustments and recoveries, and transfers of assets

- (C) A trust containing the assets of an individual who is disabled (as defined in section 1614(a)(3)) that meets the following conditions:
 - (i) The trust is established and managed by a nonprofit association.
 - (ii) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.
 - (iii) Accounts in the trust are established solely for the benefit of individuals who are disabled (as defined in section 1614(a)(3)) by the parent, grandparent, or legal guardian of such individuals, by such individuals, or by a court.
 - (iv) To the extent that amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust, the trust pays to the State from such remaining amounts in the account an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under the State plan under this title.

15



16

Attorney
Calvin Curtis
Salt Lake City
-
\$12,779,496

- SALT LAKE CITY — Attorney Calvin Curtis of Salt Lake City, was sentenced to serve 97 months in federal prison by a U.S. District Court Judge today. Curtis was ordered to pay \$12,779,496 in restitution to the 26 victims of his crimes and sentenced to an additional three years of supervised release upon his release from federal prison.
- Curtis previously pleaded guilty in November of 2021, to embezzling millions of dollars from clients of his estate planning law firm based in Salt Lake City, known as Calvin Curtis Attorney at Law PLLC, and Curtisdelaw.com. By the time of his sentencing, it had been discovered that Curtis had embezzled over \$12 million dollars from his former clients who prosecutors say are elderly, incapacitated, or disabled individuals.
- In the plea agreement, Curtis admitted that he is an attorney who specialized in special needs trusts and that beginning in January 2008, he began a fraudulent scheme to defraud a client known as "G.M." out of money. Curtis admitted that due to his role, he had access to millions of dollars in two different trust accounts belonging to victim G.M., and that he transferred at least \$9,500,000 intended for the care of G.M. into his own accounts, and then used this money for his own personal use. Curtis admitted that he also created fake financial statements and submitted these to the court ordered conservator of G.M. to conceal the fraud.
- In pleading guilty to the wire fraud charge, Curtis admitted that on January 25, 2018, that he caused a wire communication from a Schwab Investment Account to his own Wells Fargo account, resulting in a transfer of \$1,485,000. Curtis admitted that he used the money for his own personal benefit to make mortgage payments on his combined home and office located on South Temple Street in Salt Lake City, Utah; to support a lavish lifestyle with frequent travel; to purchase tickets to basketball and football games; to give lavish gifts to others; and to support the operations of his law firm.
- In pleading guilty to the money laundering count, Curtis admitted that he fraudulently caused \$185,000 to be transferred online from G.M. to his own Wells Fargo account, and that he used these funds to wire \$95,000 to The Tectal Company for the remodel of his home in Tampa, Florida. Curtis admitted that he knew these transactions were illegal at the time they occurred, and that the money was not used for the benefit of G.M.
- Assistant United States Attorneys prosecuted the cases against Curtis and Special Agents from the FBI Criminal Investigation and FBI conducted the investigation.

17

Suspended
lawyer
accused of
thefts from
disabled
clients jailed
on warrant

- A suspended Greenwood lawyer accused of stealing hundreds of thousands of dollars from disabled and injured clients whose special-needs trusts he established and then allegedly used for his own purposes is in jail in Muncie, where he may remain until standing trial on criminal charges around the state.
- Service, who in 2007 founded the Carmel-based National Foundation for Special Needs Integrity Inc., has been criminally charged with felony theft in four counties. Collectively, he is charged with stealing a total of more than \$250,000 from former clients. He also is accused in [civil lawsuits](#) of taking more than another \$100,000 from trust funds of former clients in Allen, LaPorte and Wabash counties.
-
- Meanwhile, Service is scheduled for a three-day trial beginning April 1 in Lawrence Superior Court — the first county where he was charged with theft more than three years ago. His trial setting in Bedford has since been continued four times, court records show. He faces a single count of Level 5 felony theft in Lawrence County for an alleged theft of more than \$50,000.
- An Indiana State Police investigator who began looking into Service's cases in 2017 and filed the initial criminal complaint said authorities were concerned about "numerous victims in multiple states" after a former client accused Service of taking about \$85,000 from his trust account.
-
- The Indiana Supreme Court suspended Service indefinitely after he was charged, saying he failed to cooperate with a disciplinary commission investigation of a complaint against him.(2)

18

Former employee accused of stealing \$230,000 from ARC of Texas

- The ARC of Texas has accused a former employee of stealing more than \$230,000 from at least five people with disabilities and funneling that money into multiple personal bank accounts.
- In court papers filed last week, the nonprofit states that Deborah "Dee" West embezzled money from the ARC's Master Pooled Trust by withholding financial records and using other fraudulent means. Last week, a Tarrant County judge granted the nonprofit a temporary injunction that prevents West from moving, selling or otherwise disposing of any of her property or money, with the exception of what she needs for living expenses.
- When confronted by her bosses, court documents state, West told them: "I couldn't pay my bills. I needed money. I couldn't make ends meet."
- West, who has worked at the ARC since 2004, could not be reached for comment.
- "We are deeply saddened that anyone would steal from a person with a disability," said Amy Mieskes, the ARC's executive director. "We certainly want to see anyone responsible for this breach and misappropriation of funds be prosecuted to the fullest extent possible."
- The Austin Police Department is investigating, she said, and the nonprofit has hired a forensic accountant to review all 1,900 accounts created since the trust fund was started in 1997. The ARC is still notifying the affected parties.
- Citing the ongoing criminal investigation and civil action, Mieskes said she could not provide additional information on how the alleged fraud occurred or the internal controls used to prevent such incidents.
- Under the nonprofit will send a letter notifying all trust beneficiaries of the situation, Mieskes said.
- The ARC of Texas is a statewide nonprofit that advocates for people with disabilities and offers financial management services through its Master Pooled Trust. The money — which comes from inheritances, lawsuit settlements and other means — is held in private accounts for individuals. The ARC dispenses funds to those clients for expenses such as transportation, clothing and living costs.
- The trust currently has about \$48 million.
- Trust manager Haley Greer — who was West's boss — first suspected a problem on June 14, according to court documents. Greer, whose job includes approving requests for clients, noticed an expense she knew she had not authorized and decided to review the bill. That she submitted no documentation for any of the expenses that had been submitted, Greer's affidavit states.
- Staffers quickly realized that \$60,000 had been diverted from a client's fund into West's personal bank account, the affidavit states.
- West was fired and escorted out of the building. A half-hour later, Greer's affidavit states, "Dee West called and left a voice message for me to tell them how these other accounts she took money from. Dee provided account names and account numbers for the money she stole."
- The ARC has since discovered money was taken from a fifth individual, bringing the total missing funds to \$230,433.
- "We worked so hard to establish our reputation in the community, and I don't want this isolated situation to shake our reputation," Mieskes said. "We found out about it, and we acted swiftly and responsibly and are working diligently to verify the situation."

19

Attorney General Bonta Announces Arrest of a Licensed Fiduciary for Stealing \$2.5 Million from Clients

- **LOS ANGELES** — California Attorney General Rob Bonta, together with Los Angeles Police Department (LAPD), today announced the arrest of and charges against a licensed Professional Fiduciary who stole over \$2.5 million dollars from 12 clients in assets she was hired to protect and manage. The suspect managed many special need trusts, conservatorships and power of attorney involving adult dependents or elderly clients that relied on her to provide fiduciary services. The suspect allegedly transferred money from a special needs or conservator account into her own personal account for personal use.
- "Bad actors who prey on the most vulnerable in our state will be brought to justice," said **Attorney General Bonta**. "Our elders deserve to be treated with dignity, not as puppets to further the agendas of selfish individuals. The California Department of Justice is committed to defending the rights of our most vulnerable and holding their abusers accountable."
- "We are grateful for the opportunity to assist in this investigation," said **Rebecca May, Chief of the Professional Fiduciaries Bureau**. "Licensees of the Bureau are responsible for providing critical care to a vulnerable population. The Bureau is committed to consumer protection, and we thank our law enforcement partners who share in our consumer protection goal and the Bureau staff who worked diligently on this matter."
- The investigation conducted by LAPD and DOJ's White Collar Investigation Team (WCIT) found that the suspect managed many Special Need Trusts and Conservatorships involving adult dependents or elder clients that rely on her to provide fiduciary services. Evidence showed that the suspect transferred money from a Special Needs/Conservator Account and into her own personal account for personal use. This resulted in a collective loss to 12 victims in the amount of 2.5 million dollars.

20

The CENTER for Special Needs Trust Administration



21

+ Innocent until Proven Guilty

For purposes of this presentation, we will examine the complaint BUT these are allegations

22

Case Management Items

- **Case Management Items**
- **I. Description of the Debtor's Business**
 - The Center is a 501(c)(3) non-profit Florida corporation which provides comprehensive trust services for beneficiaries and their representatives related to the formation and administration of Special Needs Trusts ("SNT"). The term "Special Needs Trust" encompasses a variety of specialized trusts used for special needs planning, which are often funded from settlements or recoveries from catastrophic personal injury lawsuits. While the various types of trusts under the SNT umbrella have some key differences, the primary purpose of an SNT is to allow someone who receives means-tested public assistance benefits like Supplemental Security Income ("SSI") and Medicaid to also receive the benefit of distributions from their SNT, such as payment for beneficiary expenses.
 - Since its founding on December 8, 2000, The Center has grown to be one of the largest administrators of SNTs in the country, with beneficiaries located in almost every state as well as beneficiaries who are located internationally. As of the Petition Date, The Center administers over 2,000 SNTs. Although The Center outsources the investment management of the funds held in each SNT, it currently manages over \$200,000,000 through both pooled and individual SNTs.¹
- **II. Location of Debtor's Operations and Whether Leased/Owned**
 - The Center is located at 12925 28th Street N, Suite 301, St. Petersburg, Florida 33716. The Center leases its office space at that location.
- **III. Reasons for Filing Chapter 11**
 - The Center's leadership recently discovered that between 2009 and 2020 approximately \$100 million of funds under The Center's control was paid out as a loan under a purported line of credit agreement. The funds utilized to make the fund this purported loan were taken from over 1,000 of The Center's beneficiaries and The Center itself. The Center's demands for the immediate repayment of these funds and for documents addressing the use of the funds have gone unanswered.

23

Case Management Items

- Upon learning of the existence of this alleged loan transaction, The Center embarked on an internal investigation to ascertain all facts and circumstances surrounding the transfer of approximately \$100 million from The Center. Through its investigation, The Center determined that the purported \$100 million loan was made to the Boston Finance Group ("BFG"), a company controlled by The Center's founder, Leo Govoni ("Govoni"). BFG and Govoni appear to have undertaken a multi-year effort to access trust funds under The Center's management while simultaneously ensuring beneficiaries did not receive proper disclosure related to these funds and failing to take any meaningful steps to repay the funds.
- Based on its investigation and the impact of the purported loan to BFG, The Center determined it was necessary to file a petition for relief under Chapter 11 of the Bankruptcy Code for three primary reasons. First, the bankruptcy filing provides The Center a means to provide all beneficiaries with notice of the transfer of \$100 million to BFG, while simultaneously allowing The Center to pursue the recovery of these funds for the benefit of beneficiaries. Second, the Chapter 11 filing will facilitate The Center's ongoing investigation into the transfer and misuse of its funds, and the funds of the SNTs it administers. Third, and finally, The Center aims through this Chapter 11 proceeding to preserve the going-concern value of its assets and to restructure its obligations for the benefit of beneficiaries adversely impacted by the transfers.

24

Case Management Items

- 1. The \$50 Million in Transfers Initiated in 2009
 - In or around 2009, The Center made its first purported loan to BFG in an amount up to \$50 million. This alleged loan was identified a "credit facility" through which The Center would transfer funds belonging to the SNTs it managed to BFGG whose principals are listed as Govoni and Jonathan Golden ("Golden"), a lawyer who has worked for and with Govoni in some capacity for more than 15 years.
 - While the transfer of the approximately \$50 million from The Center to BFG is purportedly a loan, The Center does not have copies of loan documents memorializing this alleged loan. These loan documents, however, are referenced in a letter from BFG to The Center dated August 31, 2011, and in certain amended and related loan documents discussed below. Further, The Center does not possess any records showing that a loan or line of credit to BFG or any other party was authorized by The Center's Board of Directors or any other party at The Center.
 - Shaunton, who assisted with The Center's creation and was The Center's outside counsel, also has an ownership interest in BFG. The Center only recently became aware that Shaunton has an ownership interest in BFG. Both Govoni and Shaunton were directors of The Center through early- to mid-2009.
- 2. Additional \$50 Million in Transfers Initiated in 2012
 - Starting around January 1, 2012, an additional approximately \$50 million in funds was transferred from The Center to BFG in the form of draws. To document these transfers, Govoni had BFG execute an Amended and Restated Promissory Note ("Note") in favor of The Center in the amount of \$100,000,000.00 (presumably representing the total transfers to BFG since 2009) and an Amended and Restated Revolving Line of Credit Agreement ("Line of Credit Agreement"). The Note and Line of Credit Agreement were executed by Govoni as BFG's managing member. At the time of signing, the records on file with the Florida Secretary of State listed Govoni as BFG's managing member. The Line of Credit Agreement purports to have been executed by Todd Belske on behalf of The Center. At the time, Mr. Belske was an employee, the president, and member of The Center's Board of Directors. He remains an employee of The Center as of the Petition Date. Mr. Belske, however, has no recollection of signing the Note or Line of Credit Agreement, or of the Board of Directors authorizing a \$100 million loan to BFG. Further, through its investigation, The Center has been unable to locate any documents showing that a loan to BFG in any amount was ever authorized by The Center or its Board of Directors.
 - The Note and Credit Agreement matured on January 1, 2017. BFG failed to pay the Note on the maturity date or take any action to begin repaying the approximately \$100 million taken from the SNTs. Instead, BFG continued to receive advances from The Center and SNTs until late 2016.
 - Although periodic interest payments and what was alleged to be a small principal reduction payment have been made to The Center, neither BFG nor Govoni have made any meaningful attempt to repay the \$100 million.

25

Case Management Items

- 3. Means of Control Over The Center's Financial Operations and Records
 - Govoni's control over The Center's finances took two primary forms: (i) employees of the Center would knowingly or unknowingly assist Govoni in transferring funds from The Center to BFG; and (ii) control of outside entities that were responsible for key aspects of The Center's operations and financial reporting.
 - First, to accomplish the transfer of funds, it appears Govoni relied on an employee by the name of Tracy Gregory ("Gregory"). Gregory was employed by the Boston Settlement Group, another company owned and controlled by Govoni, although a portion of her salary was paid by The Center. While Gregory was employed by Boston Settlement Group, she worked at The Center from 2008 until her resignation in 2020. During her tenure with The Center, she was both a Board member and The Center's accounting manager. In her position, Gregory had full access and control over The Center's bank accounts and financial records. For reasons that are unclear at this time, it appears that Gregory—presumably at the direction of Govoni and/or his associates—allowed the purported \$100 million loan to be transferred from The Center to BFG. Govoni was able to prevent beneficiaries from becoming aware of the \$100 million transfer by ensuring default by exercising control over the information and financial disclosures the beneficiaries received. As a trustee for the SNTs, The Center is required to furnish each beneficiary with an accounting showing the receipts, disbursements, and inventory of their SNT. This accounting must be provided at least once annually. The Center retained the accounting firm Fiduciary Tax & Accounting Services, LLC ("FTAS"), which was purportedly owned by a Mr. John Witeck ("Witeck"), to provide all required annual trust accountings and the tax filing services for each trust. The Center relied on FTAS to provide beneficiaries with the required annual accountings and paid FTAS approximately \$650,000 annually for these services.
 - Based on a review of the records filed with the Florida Secretary of State, Govoni formed FTAS. Golden, Govoni's business partner, was the registered agent of FTAS at the time of its formation. Through its investigation, The Center confirmed that Govoni—not Witeck—does in fact own FTAS. In a lawsuit filed by a former beneficiary of an SNT administered by The Center, Witeck testified that Govoni created FTAS and currently holds a majority ownership interest in FTAS. Witeck explained that Govoni gratuitously transferred a minority ownership interest in FTAS to Witeck shortly after FTAS's formation. According to Witeck, FTAS has prepared the trust accountings for The Center since FTAS's founding, and 95% of FTAS's work comes from The Center. Based on these facts, it is believed that Govoni formed FTAS and retained Witeck to prepare the required trust accountings specifically to ensure that Govoni could control the financial disclosures to The Center's beneficiaries and to further monetize his relationship with The Center.

26

Case Management Items

- 4. Means of Control Over The Center's IT and HR Operations
 - Govoni also controlled the company The Center hired and relied on for its IT and HR needs. After its founding, The Center contracted with Austin Colby Co. ("Austin Colby"), which is owned and operated by Govoni, to handle all of its IT and HR functions. Austin Colby only services entities affiliated with Govoni. Austin Colby controlled The Center's electronics, computer network, and records—including, importantly, employee access to any electronic systems and records.
 - With respect to HR, Austin Colby's services were comprehensive. The Center's employees were at times employees of Austin Colby that were leased to The Center. At other times, the same employees were listed as employees of The Center. Austin Colby controlled The Center's payroll processing and had control over The Center's payroll account. This control allowed Govoni to control the hiring and firing of The Center's employees and facilitated the
- 8
 - placement of trusted individuals in key positions of authority, including both Gregory and Caitlin Janicki ("Janicki"), Govoni's daughter and former head of case management and vice president of the Center

27

Case Management Items

• B. Discovery of Purported Loan and Internal Investigation

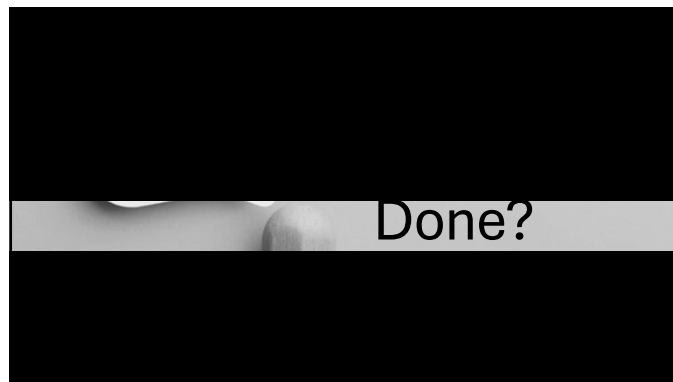
• The withdrawal of approximately \$100 million and effort used to hide these withdrawals began to unravel following Govoni's daughter's resignation in April 2022. When Janich resigned from her positions with The Center, she left behind a copy of an unsigned letter dated November 11, 2021, from BFG to The Center's board of directors. Through this letter, Govoni sought to modify the terms of the Note and Line of Credit Agreement by extending the maturity date of the Note and reducing the required interest payments. It should be noted, at the time this letter was left with The Center, the Note had long since matured and BFG had made no attempt to repay the loan.

• After Janich resigned from The Center, Govoni approached The Center's board of directors and attempted to take control of The Center through a proposed management agreement that would allow him to run all of The Center's operations. The Board rejected this proposal. In response, Govoni suggested that The Center should enter into a "Third Party Agreement" with a separate company he controlled, Global Litigation Services, LLC, which would effectively allow this new company to run and manage The Center. This plan was also rejected by the Board. In a final attempt to maintain control of The Center, Govoni proposed that Golden become an employee of The Center and be paid a significant salary for his services. In exchange, Golden would oversee and run all of The Center's operations. This plan was rejected by The Center. During this time, The Center notified Austin Colby that it was to discontinue all IT services for The Center. In response to this request, Austin Colby provided The Center from accessing the server where its electronic books and records are stored and continues to prevent The Center from accessing this information. Due to Austin Colby's conduct, The Center has lost access to many critical documents related to the purported loan with BFG and other critical financial records.

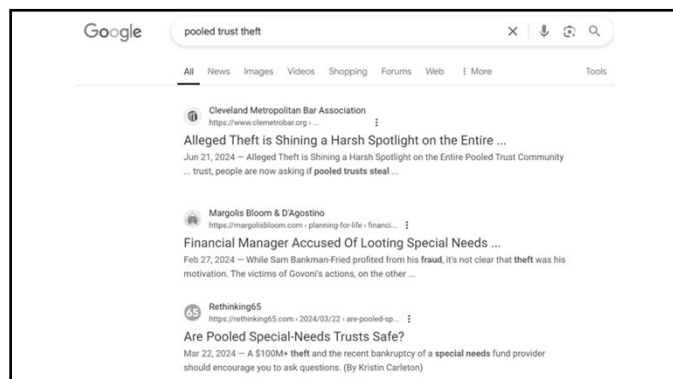
• Indeed, it is unclear to what extent those documents may have been altered or destroyed altogether. This dispute with Austin Colby is the subject of pending litigation in Pinellas County, in a 2022 case styled *The Center for Special Needs Trust Administration, Inc. v. Austin Colby Co.*, No. 22-2986-CL. Although The Center and Austin Colby entered into a settlement agreement providing for the return of The Center's records and data, Austin Colby has refused to honor that agreement.

• Following the (still ongoing) technology dispute and discovery of the November 2021 letter referencing the Line of Credit Agreement, on August 8, 2023, counsel for The Center sent a formal letter to BFG and Govoni requesting access to BFG's books and records pursuant to the terms of the Line of Credit Agreement, as well as documentation regarding how the millions of dollars in purported "loan" proceeds were used. BFG and Govoni have failed to provide any documentation or information regarding the use of the so-called loan proceeds. Then, by letter dated September 9, 2023, counsel for The Center demanded repayment of all sums owed pursuant to the Note and Line of Credit Agreement, such that the sums were due within five days of the letter/notice. No funds were repaid, nor was there any response to the letter demand.

28



29



30



31

Quote from the
Tampa Times -
Broken trust: How a
Clearwater man took
\$100M from funds
for disabled, records
say

- The center catered to people with severe disabilities who received payouts from personal injury lawsuits. Putting the money in a trust meant they stayed eligible for benefits like Medicaid.
- Despite the large sums that trust fund administrators oversee, there is little state or federal oversight, said Stephen Dale, president of the Alliance of Pooled Trusts, a Texas group focused on setting standards for the industry.
- “This is an unregulated industry,” he said.

32

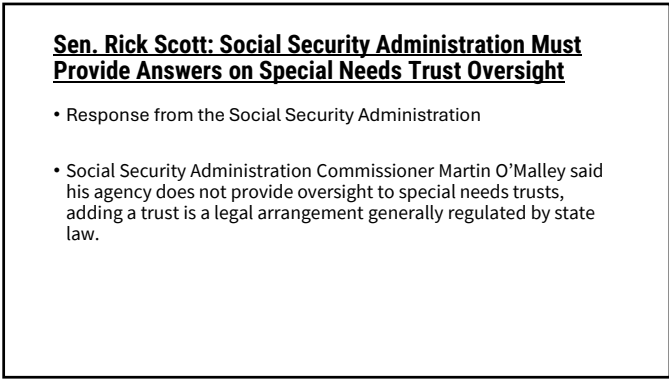
Whose Wheelhouse?

- CMS?
- SSA?
- State Law
- Best Practices
- Alliance of Pooled Trusts
- It will all blow over and nothing to see here.

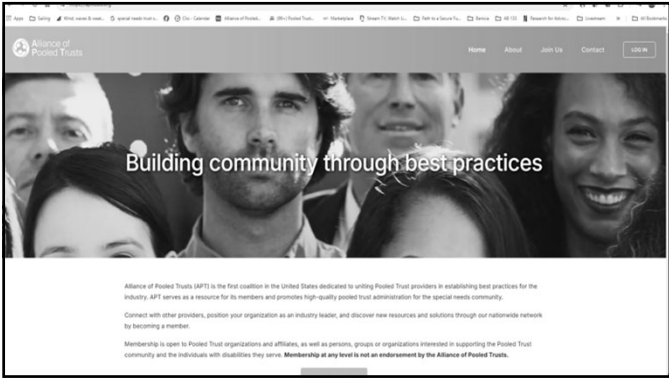
33



34



35



36



About

- Alliance of Pooled Trust (APT) was founded in 2021 to combat the challenges facing the Pooled Trust industry and connect Pooled Special Needs Trust (PSNT) providers.

37



Mission

- To inform, educate and facilitate communication among Pooled Special Needs Trust providers by establishing and maintaining best practices for the benefit of the communities they serve.

38



Vision

- APT envisions a world where all pooled trusts maintain best practices to ensure that exceptional services are provided to people with disabilities.

39

Key Dates		
Winding Down the Center for Special Needs Trust Administration		
11/22/2024	Current Opt Out date	<p>Date after which CPT will start to move CSNTA pooled trusts into its pooled trusts, and assess beneficiaries who have not opted in have their trusts.</p> <p>Pooled Trusts must opt out – otherwise they will be transferred to CPT. If they opt out, they can choose any other option they desire.</p> <p>Standalone trusts: Must opt in, otherwise CPT and our team will help find a replacement trustee.</p>
12/31/2024	Anticipated CSNTA closing date	All trust res will be transferred to CPT, or to a successor trustee, as indicated by each beneficiary.

40

A few thoughts	
	<p>The fact is that the typical Alliance of Pooled Trust member is probably the safest place to for funds for a person with a disability if they adhere to the standards adopted by APT.</p>
	<p>The current activities surrounding the Center for Special Needs Trust Administration bankruptcy will be a challenge for the pooled trust community as well as individual pooled trusts.</p> <p>To truly address the challenges presented by the Center for Special Needs Trust Administration bankruptcy we need to engage with all stakeholders.</p>

41
