

Bond Case Briefs

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SEC Charges Top Officials at Investment Adviser in Scheme to Hide Theft from Pension Fund of Detroit Police and Firefighters.

The Securities and Exchange Commission (Commission) charged the leader of a Detroit-based investment adviser for stealing nearly \$3.1 million from the pension fund that the firm manages for the city's police officers and firefighters so he could buy two strip malls in California. The SEC charged four other top officials at the firm for helping him try to cover up the theft.

The SEC alleges that Chauncey C. Mayfield, who is the founder, president, and CEO of MayfieldGentry Realty Advisors, took the money from the Police and Fire Retirement System of the City of Detroit without obtaining permission. He used it to purchase the shopping properties and title them in the name of a MayfieldGentry affiliate. Other executives at MayfieldGentry gradually became aware that Mayfield had siphoned money away from their biggest client. Rather than come clean about the theft and risk losing the sizeable business the firm received from the pension fund, MayfieldGentry officials instead devised a plan to secretly repay the pension fund by cutting costs at the firm and selling the strip malls. Their plan ultimately failed when MayfieldGentry could not raise enough capital to put the stolen amount back into the pension fund.

Mayfield and his firm agreed to settle the charges by paying back the stolen amount.

"Mayfield stole pension money from Detroit's retired police officers, firefighters, and surviving spouses and children to buy strip malls," said Andrew Ceresney, Co-Director of the SEC's Division of Enforcement. "To make matters worse, other senior officers at the firm joined together with him to cover up his deceitful and grave betrayal of trust, all for the purpose of keeping the client."

The other MayfieldGentry executives charged in the SEC's complaint are chief financial officer Blair D. Ackman, chief operating officer Marsha Bass, chief investment officer W. Emery Matthew, and chief compliance officer and general counsel Alicia M. Diaz.

According to the SEC's complaint filed in federal court in Detroit, Mayfield took the money from a trust account for the pension fund in 2008. The stolen money could have provided a year of benefits for more than 100 retired police officers, firefighters, and surviving spouses and children. Shortly thereafter, Mayfield told Ackman about the misappropriation, and by May 2011 the other principals at MayfieldGentry were aware of the misdeed. They proceeded to hide the theft by affirmatively misleading the pension fund.

The SEC alleges that during a critical budget meeting with fund trustees in 2011, Diaz stressed MayfieldGentry's success in generating a cash return for the pension fund. He stated that "the cash we deliver at the end of the day is the ultimate testimony in terms of what we do." Diaz touted a projection that MayfieldGentry would remit \$4.96 million to the pension fund in 2012. Diaz never told the pension fund trustees that the cash remittance would be reduced by more than 60 percent

once the stolen money was taken into account. At the same meeting, Matthews claimed that MayfieldGentry had achieved a benchmark-beating 6.8 percent return for the pension fund. He didn't explain that the 6.8 percent return would be materially impacted by the \$3.1 million theft.

According to the SEC's complaint, MayfieldGentry and its executives continued to cover up the theft until they finally informed the pension fund on the evening before the SEC filed a complaint against Mayfield and his firm in May 2012 for their participation in a "pay-to-play" scheme involving the former mayor and treasurer of Detroit. Upon learning of the theft, the pension fund promptly terminated its relationship with MayfieldGentry.

The SEC's complaint alleges that MayfieldGentry and Chauncey Mayfield violated Sections 206(1) and 206(2) of the Investment Advisers Act of 1940, and Ackman, Bass, Matthews, and Diaz aided and abetted those violations. Mayfield and his firm agreed to pay disgorgement in the amount of \$3,076,365.88 and be permanently enjoined from violating Sections 206(1) and 206(2) of the Advisers Act. They neither admit nor deny the allegations in the settlement, which is subject to court approval. In a parallel criminal matter, Mayfield is awaiting sentencing in connection with his guilty plea for participation in the pay-to-play scheme.

The SEC's investigation was conducted jointly by the Chicago Regional Office, the Division of Enforcement's Asset Management Unit, and the Municipal Securities and Public Pensions Unit. The investigation was conducted by Brian D. Fagel, Eric A. Celauro, Peter K.M. Chan, and John J. Sikora, Jr. The SEC's litigation against the remaining four defendants will be led by Timothy S. Leiman. (Press Rel. 2013-106; LR-22720)

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