

## Follow the Money



Follow the money is the public story as published in *The Gazette*, *The Village News* and the *Montgomery Village Foundation, Inc.* 2001 and 2004 Annual Reports, of the 714 days from when an employee embezzled \$13, 684 from the foundation until the published announcement date that the "missing money has been returned with interest". The story however, transcends a chronicle of occurrences surrounding "the missing money" and reveals a saga of:

- ☆ Disconnection and divisiveness between the MVF board of directors and its constituency, community and customers.
- ☆ A broken and ineffective un-system of the business, financial and facility management of foundation resources and property.
- ☆ An impotent staffing and project management delivery organization.
- ☆ An archaic governance, void of vision, planning, accountability, awareness, collaboration and decision making capabilities.
- ☆ A terminal condition of denial and unconsciousness among those of responsibility, obligation and duty of critical conditions, trends and consequences.
- ☆ A culture of opaque official public communication of non-answers, fictionalized conditions and results; self evaluation-congratulations for jobs undone and unsubstantiated claims that only sap the board and senior staff of public trust.
- ☆ Inept, juvenile, embarrassing and continuous attempts to blame the public press and its staff reporters for our own self generated lack of creditability and trust

Follow the Money	Source	Headline
April 1, 2005 Day 1	<u>Gazette</u> by Sebastian Montes	Missing money nets felony theft charges- Police seek arrest warrant for a former Village foundation Employee
In the February 7, 2007 issue of The Gazette it was reported that in April 2005 Laura Buttry a MVF employee transferred \$13,684 of foundation money into an account of a law firm that was foreclosing on her home.		
Date	Source	Headline
April 1, 2005 Day 1	<u>Montgomery Village News</u>	Four-month MVF financial report on target
With one third of the 2005 fiscal year complete, total expenditures are tracking 14 percent less than 2004 and comparable revenues for the 2004 reporting period are up five percent. The efficiencies in expenses are being accomplished primary through the cost-saving initiative in materials and supplies through improved purchase coordination among departments, in implementing cost control measures such as fuel fleet card discount and tracking system, in promoting enhanced, aggressive tracking of prices for services and good and in taking advantage of in-house equipment and staff expertise, versus outsourcing work."		
Date	Source	Headline
June 3, 2005 Day 62	<u>The Gazette</u> by Sebastian Montes	Audit: finances 'right on track'
The MVF has declared itself on sound financial foot for 2004."The audit shows residents what they're getting for their dollar, and just in my short time, I believe that they're getting a lot for the dollar they spend," said Geraldine Barber, the foundation's director of finance and administration. "Basically, we're doing more with less, and in a non-profit world, that is a very good thing...It's a system of checks and balances,...We really can't make money and bank it for future years, so non-profits have to be tight to the budget, on both side, income and expenditures. "I'm very pleased" said John R. Zakian, the foundation's executive vice president."		
Date	Source	Headline
June 3, 2005 Day 62	<u>Montgomery Village News</u>	2004 audit results are in- MVF ends the year on a solid Footing
MVF concluded the financial year in a solid position in both its operating budget and its reserves. The results affirm the MVF Board's strategy in approving the 2005 budget. The positive results in both the end-of-year operating budget and the total fund balances.		

Follow the Money	Source	Headline
<p>April 1, 2006 Day 365</p>	<p><u>Montgomery Village News</u> President's Message by Keith Silliman MVF President</p>	<p>Communication is key to making Village proper</p>

In the February 16, 2007 Issue of the Village New, Keith Silliman MVF President wrote, "In April 2005 a former employee misdirected approximately \$14,000 of MVF funds for her own advantage. **The discrepancy was noted approximately a year later during the 2005 audit. Arrangements have been made to recover all of the funds, plus interest**".

Date	Source	Headline
<p>May 19, 2006 Day 401</p>	<p><u>Montgomery Village News In the News</u></p>	<p>Recent checkup shows Montgomery Village Foundation's financial pulse strong - Explaining the budget "gap"</p>

Lois Campbell, treasurer and board member and Geraldine Barber, Director of Finance and Administration, sat down this week with the Montgomery Village News to talk about the Foundation's financial strengths and to address recent incorrect published reports suggesting a \$475,000 MVF "gap" for the 2005 fiscal year. **In her no-nonsense, confident manner, Campbell says, "I would characterize our financial health as excellent."** ... "The 2005 budget was approved with a planned anticipated loss of \$206,000, but because of some unexpected changes in revenue and costs, the actual loss for 2005 totaled \$475,000." Thus, the "gap" was actually \$270,000....But a budget deficit that is planned is not necessarily a bad thing, and a gap between budget and actual of less than four percent is small, but not something to be satisfied with." ...Although Campbell describes 2005 as a "disappointing" year, she reports that contracts for new sources of revenue have already been signed, and the EVP and staff are committed to finding new opportunities and sensible strategies to sustain a consistent, positive financial trend....The Board's long-standing competence in financial management is also reflected in total MVF assets, which total over \$9 million...we're within five percent of budget, and the \$270,000 difference, we're within five percent of budget, which is not perfect, and there's definitely room for improvement, but it's certainly not a horrendous place to be"...Campbell comments, **"We're just begun to analyze the numbers for 2006, and although from an early perspective it looks good, we are more vigilant than ever to anticipate unforeseen events so that this year's performance will meet or improve on budget."**

Date	Source	Headline
June 30, 2006 Day 443	<u>Montgomery Village News</u> <u>Money Matters</u> by Lois Campbell Treasurer	MVF 2006 finances show four month positive balance
<p>Since being appointed MVF, treasurer in March, I have been delving into the MVF finance structure and management. <b>I don't claim a full understanding, but I am getting there with the help of ...John Zakian, guidance of Board members Keith Silliman and Dick Wright</b>, both of whom have been acting treasurers in past years. ...As far as the big picture is concerned, the Foundation is in good shape, financially speaking, with a record net worth of around \$9,000,000 and no debt. MVF is actually worth more than that because some of the more permanent assets, like community centers, are "off the books".</p>		
Date	Source	Headline
July 11, 2006 Day 460	<u>Gazette</u> by Sebastian Montes	Missing money nets felony theft charges-Police seek arrest warrant for a former Village foundation Employee
<p>In the February 7, 2007 issue of The Gazette it was reported on July 11, 2006, John R. Zakian the foundation's executive vice president, alerted police to the suspicious transfer, according to police reports.</p>		
Date	Source	Headline
August 1, 2006 Day 480	<u>The Gazette</u> by Sebastian Montes	Village leaders regain control of money - Focus turns to sloppy record keeping, increase or cuts to balance budget
<p><b>MVF leaders have not found any money missing in their review of community finances, but its finances following last month's resignation of its top executive, John R. Zakian.</b> Lois Campbell-interim director of finance and administration-confirmed that the group will run a \$216,000 deficit in this year's 6 million-plus operating budget. The foundation has with a deficit for the last two years, but Campbell vowed to change that. "There will be no deficit budget in 2007" The financial review comes as MVF is preparing to begin work on its next year budget. A shortfall of slightly more than \$200,000 was anticipated this year, but early numbers indicated the gap would be \$475,000, raising concerns of potential missing money.</p>		

Date	Source	Headline
August 2, 2006 Day 481	<u>The Gazette</u> by Sebastian Montes	Zakian out: Village to vet funds-Director resigns, leaves financial shortfall and resident anger in his wake
<p>John R. Zakian, the embattled executive vice president of the Montgomery Village Foundation, resigned last week. His departure after two-and-a-half years on the job comes amid mounting concerns over the tracking and reporting of the finances and plans to improve Lake Whetstone. This year's audit of the foundation's \$6 million-plus budget showed a \$475,000 of that gap was anticipated, the shortfall has alarmed residents who are demanding reforms. Toni Negro, board vice president, and interim executive vice president stated neither the deficit nor the lake dispute played a role in Zakian's departure.</p>		

September 6, 2006 Day 515	<u>The Gazette</u> by Sebastian Montes	Village leaders regain control of money -Focus turns to sloppy record keeping, increases or cuts to balance budget.
<p><b>Montgomery Village Foundation leaders have not found any money missing in their review of community finances, but they may have to look at assessment increases or cuts in services to make up for a budget deficit.</b> The foundation is undertaking the review of its finances following last's month's resignation of its top executive, John R. Zakian. At a meeting Thursday, Lois Campbell-the interim director of finance and administration-confirmed that the group "will run a \$216,000 (budget) deficit...plus (an) operating... shortfall of... \$475,000" raising concern of potential missing money" Campbell stated "All foundation money has been accounted for...inconsistent bookkeeping and the misdirection of funds resulted in the inflated numbers." The discovery of poor recordkeeping, coupled with lagging financial reports and the resignation of Zakian and the Director Finances Geraldine Barber has the foundation working to regain its financial footing. Pat Huson, a former foundation official who agreed to step in as executive vice president after Zakian's resignation...<b>has never seen the foundation is such a financial morass.</b> "No, not like this, not that I'm aware of, at least:" Still, Huson ...doesn't think "these are problems that can't be fixed, I'm very optimistic about that." <b>But the situation has created concern among residents: several at Thursday's meeting called it a crisis of confidence."</b> ...Campbell-in her mid-year report promises that the foundation will be more forthright about finances. "But among the things the foundation won't do, is get a new audit." The residents said they were asking for the audit largely due to concerns of malfeasance or fraud.</p>		

Date	Source	Headline
September 15, 2006 Day 524	<u>Montgomery Village News</u> <u>Money Matters</u> by Jude Gustafson	As a matter of fact ...
<p>It is important for residents to know and understand decision on Foundation finances; however, it is sometime difficult to know where to find reliable facts. <b>In that in mind, in response to the article "Village moves toward raising assessments" written by reporter Sebastian Montes and published in the Wednesday, September 6 issue of <u>The Gazette</u>, Lois Campbell has provided feedback and corrections that yield a fact-based picture of that report...Forgiving Montes' terminology glitch in his statement, "Foundation leaders pored over the Village's finances..." ...two Audit Committee members were present at the budget meeting; there were actually five members present...Last, reporting exaggerations, perhaps intended to sensationalize, only magnify Montes' reporting errors...As with all media information, audiences must reflect on the motivations of those holding the pen...The Foundation is working hard to keep everyone informed and put an end to inaccuracy in report that would divide our community.</b></p>		
Date	Source	Headline
October 4, 2006 Day 543	<u>Gazette</u> by Sebastian Montes	Huson back at the helm of the Village-Veteran has 'no fears' about foundation's well-being
<p><b>Though conceding that the current travails amount to "a recovery period to restore people's confidence," those worries are far from serious'. Over the next few months, she expects it all to settle back to normal. "We still have a good staff and the financials are getting back in order. So I have no fears about the stability of the foundation".</b></p>		
Date	Source	Headline
January 30, 2007 Day 659	<u>Gazette</u> by Sebastian Montes	Missing money nets felony theft charges-Police seek arrest warrant for a former Village foundation Employee
<p>In the February 7, 2007 issue of <i>The Gazette</i> it was reported that "Confirmation of missing money comes after months of financial cleanup and account reconciliation for the foundation's \$7 million-plus annual budget. <b>Lois Campbell, interim treasurer, reported last week that all accounts in arrears have been wrapped up and that through the November 2006 report"</b>. The foundation cites mistaken projection in maintenance revenue and not having increased assessments for the deficit.</p>		

Date	Source	Headline
February 7, 2007 Day 666	<u>Gazette</u> by Sebastian Montes	Missing money nets felony theft charges-Police seek arrest warrant for a former Village foundation Employee
<p>County police filed charges for the arrest of a former MVF Employee accused of embezzling nearly \$14, 000 from MVF's retirement fund. Laura Buttry is named in a warrant application that seeks her arrest on charges of felony theft. Police say Buttry...fraudulently authorized a transfer of foundation funds in April 2005 to prevent foreclosure on her home, according to information in the warrant application. <b>Police are seeking the warrant after a more-than-year-long investigation in which they and foundation officials and auditors quietly went about reconstructing what had happened. "I think it's been methodically pursued and based on what I'm seeking, it will be resolved and there will be no loss to the foundation," Keith Silliman, president of the foundation board, said Monday afternoon. "I think under the circumstances, this is as reasonable an answer as we can expect."</b></p>		
Date	Source	Headline
February 16, 2007 675	<u>Montgomery Village News</u> <u>Money Matters</u> by Lois Campbell Interim Treasurer	Employee theft was shocking, but audit and internal investigations averted financial loss
<p>In April 2005 a former employee misdirected approximately \$14,000 of MVF funds for her own advantage. The discrepancy was noted approximately a year later during the 2005 audit. <b>Arrangements have been made to recover all of the funds, plus interest. Since the audit, and subsequent resignation of the employee, details of the transactions were investigated and thoroughly documented. Furthermore, other suspicious activity was determined to have occurred, and all other related audit results found the financials clean. Contrary to other published reports, the MVF Retirement Fund was not affected in any way by the incident. During the course of these investigations, the police and the MVF insurance company were contacted and their assistance sought. When confronted, the former employee agreed to make full restitution and MVF has agreed to this arrangement. The former employee may still face the legal consequences of the theft. The MVF pursued six major objectives when this incident was first suspected: 1.take remedial action to prevent such conduct in the future; 2. recover the lost money; and 3.proceed in all matters while upholding all federal and states rights granted to employees. (4,5,&amp; 6 ?) All of those objectives were met. MVF audit policies prevented this theft from going unnoticed. No funds will be lost and MVF retirement accounts and all other foundation accounts are in order.</b></p>		

Date	Source	Headline
February 16, 2007 Day 675	<u>Montgomery Village News</u> President's Message by Keith Silliman MVF President	Communication is key to making Village proper
<p>In April 2005 a former employee misdirected approximately \$14,000 of MVF funds for her own advantage. The discrepancy was noted approximately a year later during the 2005 audit. Arrangements have been made to recover all of the funds, plus interest.</p>		
Date	Source	Headline
February 16, 2007 Day 675	<u>Montgomery Village News</u> Executive Vice President's Message	Staying positive when faced with change
<p>First, let me say that I hope you have all read the story on page 1 of this edition about the unfortunate theft by a former employee and the action the Foundation and police have taken to remedy the situation. <b>With coverage in the Gazette plus the inevitable talk "around the water cooler" and in the community, I feel it is critical to let everyone know exactly what happened.</b> I wanted to be sure everyone knew how the auditors and staff tracked down the misdirected money and that step that were taken to recover absolutely all the funds. <b>...However, we are committed to letting all of you know that the money you have paid to the Foundation for services is secure.</b> In addition, the MVF retirement accounts have not been affected, and a subsequent audit showed that the Foundation's books and accounts are in excellent shape. One of the reasons I have stepped in the EVP's job is that I love this community and want to do everything I can to make sure it is managed and operated to your benefit. <b>I am proud of the way our staff auditors, local police and Board of Directors have worked together to make everything right.</b></p>		
Date	Source	Headline
March 2, 2007 Day 689	<u>Montgomery Village News</u> Letters to the Editor from Marilyn A. Cadoff a resident of The Points	Letters to the Editor
<p>It was very distressing ...to read of the embezzlement that occurred with MVF funds...I felt ...there were still many questions that had not been answered. <b>Specifically, what was the nature of the theft and what weakness (es) existed in the internal controls that allowed the theft to happen? Who discovered the theft and what led them to believe that it had happened? What internal control(s) are being put into place by the Foundation to prevent this from happening again?</b></p>		

Date	Source	Headline
March 2, 2007 Day 689	<u>Montgomery Village News</u> Letters to the Editor response from Pat Huson, Interim EVP	Letters to the Editor
<p><b>Internal controls are strengthened by an excellent staff, now in place, who follow advice from our auditors on such matters,</b> Detail of the loss will not be given since the case is not yet entirely closed. Anyone with a background of financial management such as a CPA is welcome to submit for membership of the MVF Audit Committee to review the handling of MVF finances.</p>		
Date	Source	Headline
March 14, 2007 Day 712	<u>Gazette</u> by Sebastian Montes	Missing money back in MVF coffers
<p>The former MVF employee who allegedly stole nearly \$14,000...has repaid the money in full, plus interest...Pat Huson, the foundation's EVP, said Monday "We are pleased that they money was returned with interest"</p>		
Date	Source	Headline
March 16, 2007 Day 714	<u>Montgomery Village News</u> Letters to the Editor from Robert Hess of Maryland Place	Letters to the Editor
<p>Congratulations to Katherine Gray, Scott Johnson and Jim King for their blowout MVF election victory. The message sent by Village voters is very clear: It is time for change. <b>That change must now include the leadership of the MVF Board, which led us into the financial mess we are in.</b> Headline story reported to the contrary, and the MVF Board's phony "action to reduce budget deficit" is no more than a shell game. The Board decided to eliminate the 2006 contribution to the MVF Reserve Fund in order to mask their wasteful deficit spending. <b>The Reserve contribution was part of the 2006 budget that determined the assessment we would all pay, and are now paying.</b> To withhold that contribution is irresponsible. Where are the steps to eliminate the deficits? <b>Instead, the Board shuffles money around and raises our assessments rather than taking a hard look at what the problems really are.</b></p>		
Date	Source	Headline
March 16, 2007 Day 714	<u>Montgomery Village News</u> Executive Vice President's Message	Finding the status quo
<p><b>This has not been the easiest term, attempting to bring things back in order after a period of discontent and questionable top-level management. Worries about financial conditions have been heard, but a look at the audit report for 2006 will assure owners that the Foundation remains in excellent financial condition.</b> Even the missing money, misdirected by a former employee, has been returned with interest.</p>		

## The saga of the missing money



According to written reports it took 460 days to discover that MVF cash funds under the care, control and custody of MVF staff were missing, misdirected, stolen and or embezzled. The event was first publicly reported by the "embattled" staff writer of The Gazette Sebastian Montes in its February 7, 2007 edition that a police warrant of a former MVF employee accused of fraudulently authorizing transfer of \$13,684 from MVF retirement fund. Seven (7) months latter in the February 16, 2007 issue of the Village News , The Official Newsletter of Montgomery Village Foundation, Inc., reported that the "Employee theft was shocking, but audit and internal investigations averted financial loss, ...the financials are clean and No funds will be lost and MVF retirement accounts and all other foundation accounts are in order" (Lois Campbell, Interim Treasurer); "Arrangements have been made to recover all of the funds, plus interest.(Keith Silliman, Interim MVF President) and "...the auditors, local police and Board of Director have worked together to make everything right". (Pat Huson, Interim EVP). Everyone has questions but as Pat Huson, Interim EVP stated in response to Marilyn A. Cadoff, a CPA and a resident of The Points in her questions on the embezzlement "The staff is excellent, details of the loss will not be given since the case is not yet entirely closed and Ms. Cadoff can go apply for membership on the MVF Audit Committee." Let's list the questions and speculate about the answer.

1. How and who discovered this unauthorized transfer? Why did it take so long to discover that MVF funds were fraudulently transferred and take action after the discovery?
2. What and who knew and when did they know it?
3. What can we say about MVF's financial management systems and practices?
4. What can we say about MVF's Board of Directors oversight and communications of financial matters?

## The "gap" between discovery and resolution

On July 11, 2006 (Day 460) the *Gazette* reported John R. Zakian alerted police to "the suspicious transfer, according to police reports". How long before Zakian was aware of the situation? Heaven knows John was a promoter and public relations type and didn't have the skills or desire to supervise a petty cash account let alone be in charge and take responsibility for a community with \$ 9 million in assets and a \$6 million budget. As Sebastian Montes, the "annoying" staff writer for the *Gazette*, wrote on August 2, 2006 Day 481, that soon after Zakian left his job as executive director of the Yonkers (N.Y.) Industrial Development Agency/Job Development Corporation (1984 to 1993) his secretary at Yonkers was accused of embezzling \$350,000 and pleaded guilty to a lesser charges. Zakian told the *Gazette* he was the one who realized his secretary had written checks to herself and said he was unfairly blamed for failing to discover the embezzlement, which should have been uncovered in an audit. We could give John credit for "Embezzlement Reduction", as embezzlements under his watch declined from \$350,000 to \$13,000 but I don't think he uncovered the theft, he only provided the environment that encouraged such things to happen.

Notwithstanding Pat's Huson's comments above about "details about the loss will not be given", as reported in the *Village News* President's Message column "The discrepancy was noted approximately a year later during the 2005 Audit" in April of 2006. That would mean a "gap" of at least 81 days between the "notation" of the discovery by the auditors and when Zakian "alerted police to the suspicious transfer".

This only increases the quantity of unanswered questions about handling and condition of the financial and fiscal affairs of the Foundation as well as the creditability of those with power, duty and obligation in such matters.

### What might have happened?

Following are excerpts from Polices & Procedures to Prevent Fraud and Embezzlement - Guidance, Internal Controls, and Investigation a book published by John Wiley & Sons, Inc. in 2006 written by [Edward J. McMillan, CPA, CAE](#)

1. **Who** Embezzlers rarely fit a stereotypical image and almost always someone above suspicion.

2. **Why** Despite the appearance of honesty in their personal life they are desperate people capable of taking desperate action and have a gambling issue, alcoholic and/or substance abuse problem or are experiencing financial difficulties.
3. **The Fraud Triangle** From the "Statement of Auditing Standards Number 99" of the American Institute of Certified Public Accountants, for fraud to occur the Fraud Triangle of incentive, opportunity and rationalization is present. **Incentive** (See why above with an employee experiencing financial difficulties), **Opportunity** (Too much trust, poor internal controls, lack of supervision by supervisors, no financial audit by independent CPAs). The basis purpose of effective controls is to remove the opportunity for fraud. **Rationalization** (Over time the embezzlers are convinced they are not stealing, but rather self-correcting a perceived wrong such as a pay discrepancy or the like).
4. **How They Get Caught** Despite belief to the contrary, most fraud is discovered by accident and due to unanticipated work interruptions. CPAs financial audit 2% - The embezzler knows the auditors routines and what its supervisors look for and do not look for. The auditor engagement is to render an opinion on fairness and accuracy of the financial statements and not to uncover fraud.  
Results of internal audit 18% - A good internal audit program is very effective if effective established procedures and internal controls are followed between annual audits.  
Whistle blowing 30%  
Luck of by accident 50% - Stumbling into something or the thief's careless accounts.
5. **The Financial Services and Accounting Department** Most internal embezzlement schemes and other financial related difficulties involve someone assigned to an accounting function such as handling checks, cash, deposits, bank statements and reconciliation, payroll preparation, payroll tax deposits and employees with sole custodian of accounting records. Also the incidents of accounting irregularities are greatly increased if the person assigned to these function is not an accounting specialist by training, education and certification.
6. **When** Most embezzlements take place during the "window of opportunity" that is open between the time the CPA has concluded the audit field work for one year and the time the auditor starts the subsequent annual audit.

In the case of the MVF "misdirected- suspicious transfer" The 6 conditions excepted from Mr. Mc Millan's book were present created a

perfect storm for financial disaster, a trusted long term accounting department employee, with financial problems, apparently solely responsible for "managing its benefits program"

### **What we know about the MVF employee retirement and saving plan**

Note 8 B (Employee benefit plans - Retirement and Savings Plan) to the "Notes to Financial Statement of the audit of the financial statement of Montgomery Village Foundation, Inc. for the year ending December 31, 001 states " The foundation makes a fixed contribution of 2% of salaries and wages to the retirement savings plan. In addition, if the employee elects to defer a percentage of their pay the Foundation will make matching contributions as follows:

Employee Elective Deferral	Employer Matching Contribution
2%	3%
3%	4%
4%	5%

The maximum employer match is 5%. Employer contributions to the plan were \$94,537 in 2001."

### **How do these plans work?**

The administration of "retirement and saving plans" is normally a function of the payroll accounting and record keeping department of a large scale community association such as MVF using a payroll service company and/or a payroll module of its in-house accounting system. The benefit program, the savings funds and individual retirement and saving accounts are normally maintained and managed under contract by a benefit or investment management firm as the fund manager.

It is common practice to establish a payroll transfer bank account as the depository of the gross payroll including the employer's cost of payroll taxes and fixed and matching employer contributions to the retirement and saving funds are deposited each payroll period. Logging on to a web based computer program of the fund manager the total of the current employee withholding retirement fund contribution and the employer's contributions posted to each individual employee's account balance and simultaneously wire transferred to the fund manager. For larger employers federal and state income tax employee withholding and employer social security contributions are paid as a function of the

withholding tax reporting system by electronic transfer known as "impoundment". Any payroll or tax and benefit expenses not paid at the end of the monthly accounting period is usually recorded on the books and records as current liability.

### **How did the suspicious unauthorized transfer take place?**

The 2007 payroll budget for salary and wages is \$3,011,092. If the assumption that the total of the payment to benefit and saving fund is 6% of salaries and wages, the annual contribution would be approximately \$180,000 or \$15,000 a month. Remember the employer pays a 2% fixed contribution for eligible employees. Each employee can elect a deferral amount from 2 to 4% and MVF contribution a matching contribution from 3 to 5%. In 2001 MVF contributed \$94,537 so it would be reasonable to assume that the total contribution to that year's fund would be \$150,000 to \$160,000. If we assume MVF electronically monthly payments to the benefit and retirement fund the "fraudulently transfer of \$13,684 from the MVF retirement fund" was the March 2005 "retirement and saving" transfer normally electronically transferred to the benefit manager.

Such a misdirected transfer could go unnoticed even if others employees were responsible for balancing the bank statements, producing the financial reports and performing other balancing and internal control procedures. All bank, payroll and general ledger accounts would appear in order until the 2005 audit is conducted in the spring of 2006.

In 2004 MVF Annual Report section on Finance and Administration on page 15 states "The department underwent several changes during 2004. The financial affairs supervisor served as interim director until the new director (Geraldine Barber) was hired in December 2004. During the transition, staff readily assumed additional responsibilities to keep the department running. Fixed asset, payroll and COBRA software was upgraded." There were plenty of changes, distractions and stress on the remaining and new staff to assume the "unauthorized transfer" would probably go undetected for at least a year.

Normally the benefit manager provides a variety of paper and on-line monthly, quarter and annual reports to its clients and employee enrollees to the benefit and savings plan. During the annual audit payroll transactions and balances from the fund including individual employee transacts and balances would be examined. If the "suspicious and unauthorized transfer" was discovered during the course of the 2005 audit was reported as an employee receivable, as part of the "Notices to

Financial Statement" Note 8 B, Employee benefit plans - Retirement and Savings Plan" or Note 10 "Concentrations of credit risk" and/or as a reported condition in the Management Letter to the board of directors as a concern or weakness of the internal controls?

## **Follow the Money - The Gap Between Discover & Recovery**

Who knew what and when did they know about it? What actually happened during the 310 days between discovery, day 365 and the alleged recovery, day 675? When did each board member know and how did they perform their respective responsibilities, duties and obligations to quickly remedy the situation, examine the conditions that allow the embezzlement to take place and to take appropriate action to avoid future acts of fraud?

At the time, the dominant and controlling force of John Zakian, Executive Vice President, was in charge, in control of the staff, the board and the flow of information about the audit in progress. He undoubtedly signed the auditors engagement letter and it's a fair assumption that Regardie, Brooks & Lewis audit staff knew John was "the go to guy". Geraldine Barber had been the Director of Finance and Administration for only a few months and Lois Campbell in April 2006 was a board member and the treasurer.

From the MV Observer's blog:

**Shan** said..."As a former employee of the Foundation, I can assure you the Buttry situation was kept very quiet. I am guessing that only three MVF employees even knew about it once the auditors alerted them, and one, of course, was Zakian." **Sane again** reported...I am a former MVF employee. Zakian was a monster. That does not excuse the MVF board for letting him happen along with the money mess. He was thrown out of every job he had. Lon Haman, Keith Silliman, Dick Wright and the rest of that board are responsible for everything bad that has happened in Montgomery Village.

On day 675 Keith Silliman in the February 16, 2007, issue of the MV News "President's Report" wrote in guarded and euphemistic language "In April 2005 a former employee misdirected approximately \$14,000 of MVF funds for her own advantage...The discrepancy was noted approximately a year later during the 2005 audit. (April 2006) Arrangements have been made to recover all of the funds, plus interest". From Keith's admission we can assume he was informed as president of the board of directors, a member of

the executive committee and an elected board director of the "misdirection" at the time of the auditor's "notation".

Lois Campbell is quit another story. Originally a member of the board of directors she was appointed treasurer and a member of the executive committee in March of 2006 only a month or so before the auditor's "notation". In the May 19<sup>th</sup> 2007 issue of the MV News "MV News In the News" column "In her no-nonsense, confident manner, Campbell says, 'I would characterize our financial health as excellent...We've just begun to analyze the numbers for 2006, and although from an early perspective it looks good, we are more vigilant than ever to anticipate unforeseen events so that this year's performance will meet or improve on budget.'" May 19<sup>th</sup> was 36 days after the auditor's "notation".

On August 2<sup>nd</sup>, 2006, 124 days after the auditor's "notation" and 22 days after Zakian "altered police, Montes writes "MVF leaders have not found any money missing in their review of community finances...Lois Campbell...confirmed...A (operating) shortfall...would be \$475,000, raising concerns of potential missing money."

In the September 6<sup>th</sup> 2006 issue of The Gazette 159 days after the auditor's "notation" and 55 days after Zakian's "alert", "star" reporter Sebastian Montes reports, "MVF leaders have not found any money missing in their review of community finances...Lois Campbell-(now) the interim director of finance and administration... stated "All foundation money has been accounted for...inconsistent bookkeeping and the misdirection of funds resulted in the inflated numbers." ...Campbell-in her mid-year report promises that the foundation will be more forthright about finances. "But among the things the foundation won't do, is get a new audit."

## Understand John Yakian

To understand the unseen events surrounding the "missing money" it is important to understand the nature and character of John Yakian. John had history of being selected for positions of public trust by spinning allusions of improving service delivery, exceeding community and industry standards of facility maintenance; lowering operating costs, taxes and assessments levels while balancing the budget with bountiful new funding from private foundations and local, state and federal government grants and appropriations. There are 4 common denominators of



Zakian's known employment record:

1. A controversy surrounding financial reporting and mismanagement and mishandling of funds.
2. A gap between initial promise and performance with a surreal ability to avoid accountability, determined his own performance measurement standards and not take responsibility for any adverse condition.
3. Shortly after John's arrival a growing distrust in the public press and the general public.
4. Undeserved and continuous support from his immediate supervisors and elected officials who hired him.

From the MV Observer blog:

**Shan says:** Google Zakian once in a while and you'll see that his history at the foundation and in a previous job is already beginning to haunt his career. He was appointed to a fairly prominent position in New Bedford, MA, where his wife lives. He withdrew from the appointment in January when the Buttry story came out. The reporters from Yonkers and West Palm Beach are being updated as I hear things.

From other newspaper accounts and blogs:

[The man on the hot seat](#)

[Zakian paid twice](#)

[John Zakian isn't alone](#)

[Zakian still on the hot seat](#)

John had been in tough situations before. His instinct is to take care of these kinds of public relations problems quietly and when the cure is in progress reveal to as many as possible how he discovered the condition and how his quick action saved the community from great loss and embarrassment. However, on the first day of summer 2006, day 446, wasn't a good time for this personnel matter to happen.

There was growing public concern over the handling of the foundation's financial affairs, it was becoming difficult to spin a positive financial allusion narrative without revealing actual understandable, detailed and accurate balance sheets and operating reports.

The MV News reported on June 14<sup>th</sup>, 2006, over 100 residents attended a community forum and a lively dialog involving the future of Lake Whetstone, the boat house and the dock". The July 5<sup>th</sup>, 2006 edition of The Gazette reported the Friends of Whetstone Lake (FOWL) filed a dispute resolution with the foundation. Not something John couldn't handle. He felt a new sense of confidence and arrogance after the backing and support the board showed him at the lake meeting. The board message was clear - "stay the course". Didn't he take the heat for the board that night? John was truly a "war time" EVP. Three days after Zakian "altered the police" his EVP Message in the July 14<sup>th</sup> edition of The MVNews was titled "Preparing 2007 budget is a delicate balancing act". John, had a lot on his mind and he could be forgiven he did not handling the misdirected funds issue immediately.

### **When fraud occurs, what should happen? What did happen?**

Being a victim of fraud is an embarrassment to any organization but a reality all organizations. Prudent business practice is to have a preplanned strategy of action if and when fraud occurs. From the book Policies and Procedures to Prevent Fraud and Embezzlement by [Edward J. McMillan](#), CPA, CAE the following action plan for a large scale community association was developed.

1. Do not accuse anyone of an impropriety - Get the facts. Be patient and thoroughly investigate the situation before any action is taken.
2. Contact an employment attorney - Obtain advice on how to proceed to avoid any associated legal issues concerning termination for fraud.
3. Take detailed copious notes - It may be years before going to trail. Anything can happen such as loss of memory and turnover of personnel.
4. Review important provision of the foundation's Employment Dishonesty (Fidelity/Crime) insurance policy - Such provisions as police reporting requirements, time frame to file claims, who and what circumstances are employees covered and what are the deductibles. Following are typical crimes policy provisions for community associations excerpted from a Travelers Casualty and Surety Company of America policy.  
Provision on Duties in Event of Loss A. Notify us as soon as possible, B. Submit to examination under oath at our request a signed statement of the answers. C. Give us detailed sworn proof of lost within 120 days. D. Cooperate with us in the investigation of any claim.  
Discovery Period for Loss We will pay only for covered loss discovered no later than one year from the end of the policy period.

5. Do not have discussions in the employee's office, cubicle or other work areas The offender's office almost always contains vital evidence related to the incident.
6. Has a witness - The termination discussion always should include a witness regardless of the nature of the situation. The witness should always be to the same sex as the person being terminated. If possible the witness should be the CPA, attorney or other persons essential to the case.
7. Protect yourself and other employees - Violence in the workplace is common. If violence is a possibility contact the local police for advice and assistance.
8. Have the discussions during non business hours - This avoids an unnecessary office scene and embarrassment.
9. Ensure surrender or organization property - Have 2 employees go to the offender's office to remove personal effects such as a purse, wallets and car keys. Non essential personal property such as photos should be gathered by the 2 employees and couriered to the employee's resident the following day. The employee should surrender organization property such as door keys/entry devices, credit cards, cell phones, lap top computers, cameras and work tools.
10. Escort offender from the office - The employee should not be allowed to return to his or her office as it contains evidence important to the fraud investigation, forensic accounting information that could affect the case.
11. Make notes of any discussions - After any discussions with the employee the executive and witness should make notes on the date and time, names and contact information of the executive, witnesses, police officers, CPAs and attorneys present.
12. Get a police report - On advice of attorney obtain a police report of the incident as this report is required as a condition of fidelity bond claims, forensic accounting data and litigation strategy. Zakian filed a police report on July 11<sup>th</sup>, 2006, day 460, 102 days after the "auditor's notation". If filing a police report was a prerequisite of filing an insurance claim when was the insurance claim filed?
13. Process fidelity bond and employee dishonesty insurance claims - Was the employee covered and did the claim cover the entire amount of the loss. Was the recovery from the employee or through an insurance claim?
14. Prosecute - The foundation and/or the insurance carrier if a claim is filed is duty bound to prosecute. Early prosecution is the best leverage to obtain recovery with minimum delay from the employee.

15. Decide how to relate the circumstances to others - Obtain advice from counsel on how to hand related circumstances of termination internally with staff, inquires from the public and in regard to reference inquires. Zakian was always quick to assure the board that attorney's were not necessary when the "A" word came up.
16. When it is over - Reconstruct the details and change procedures to insure such an occurrence will not happen again.

In the event of embezzlement, the logistics of implementing a preplanned strategy of action in the event of embezzlement should not be difficult or take long, items 1 through 13 and 15 within 10 days, 14 and 16 not longer than 90 days.

It is a reasonable assumption, when RB&L finished the audit field work on the MVF 2005 financial books, records and statements in April 2006, day 365, the details of "who", "how", "how much" and "when" concerning the misdirected-embezzled-stolen- missing money was known documented and communicated to MVF authorized representatives. MVF leaders would have us believe that during this "discovery-recovery gap" the staff offices at 10120 Apple Ridge Road resembled the movie scene when Elliott Ness stood amidst a legion of accountants, FBI suits and police officials as they built an income tax evasion case against Al Capon. The image of members of the board of directors, and other MVF officials looking under desks, in file cabinets and poring over evidence in their "more-than-year-long-investigation as they quietly went about reconstructing what happened" sounds like an adult version of "the dog ate my homework" explanation.

There were no reasons for the fraud and white collar crime department of the Montgomery County Police to investigate what happened or to sign an engagement letter with Regardie, Brooks & Lewis to perform any Forensic Accounting or Fraud Prevention and Detection services.

### **What happen between discovery & recovery?**

Defaulting into his best Dick Cheney damage control mode Zakian revealed the "I've taken care of the situation" version of events to John Silliman and Lois Campbell. Sometime later, the remaining members of the MVF executive committee, Toni Negro, VP and Richard Wright, interim-treasurer after a Zakianese style briefing opted for the "local-police-and-board-of-directors- working-together-to-make-everything-right-with-interest" rendition. In compliance with the MVF long standing closed and opaque

communications policy this version was only to be revealed on a need to know basis or made public if "talk around the water cooler" leaked a distorted account to "other published report" sources. The remaining board members were part of the "don't ask, don't tell" level of awareness group.

The news of an embezzlement by long time trusted employee sent shock waves in all directions. How can something like this happen and go undetected for so long? Even Zakian was having a hard time getting his mind wrapped around this one, only the offender herself could answer all the questions.

The department of finance and administration by any standards was stretch very thin, understaffed and leaderless. If there was at any time a system of internal controls it slowly eroded as valuable personnel left, remaining employee struggled to keep up and new and temporary employees became uncomfortable with the unproductive working environment.

There were in all probability secret meetings of those with appropriate security clearance to work through the initial panic, denial and non assumption of responsibility. Zakian was worried about the public relations aspect and how he could spin a happy face out of this one.

Best guess at this point Zakian, along with the RB & L audit team leader met with the offender who told her story. She had to know it was only a matter of time. In all probability an arrangement was agreed upon for her to make restitution by selling or refinancing her home. The real estate values in the Village had increased substantially in recent years reaching its peak early in 2006. The pre planned embezzlement action plan wasn't necessary. This had to be kept quiet. Prosecution was too public. John had his "I've take care of the situation" plan in motion with the complicity from MVF leaders' and compliance out of fear from senior staff.

As spring turned to summer the plan was falling apart. Village real estate values were in decline. An insurance claim had to be filed but only after a police report was filed. The leverage MVF had with quick and early prosecution had been lost. In the February 7, 2007 issue of The Gazette it was reported on "July 11, 2006, John R. Zakian the foundation's executive vice president, alerted police to the suspicious transfer, according to police reports."

## The Montgomery Village News vs. The Gazette

Concerns about the MVF financial and fiscal practices, reporting and communications have been ever present and growing. Those who have questioned, requested specific information, challenged financial practices, the accuracy and veracity of the fiscal reporting or the slightest mention of the board and senior staff's performance of duty were demonized, patronized, minimized, marginalized and treated as the enemy of the Foundation. The responses to questions by the MVF board members and staff spokespersons act out standard scripts that deny problems, defend the honor, dedication and commitment of generations of current and past volunteers and employees.

James Deye of Whetstone, Robert Hess of Maryland Place, Marilyn Cadoff of The Points, and the late Barry Locke are a few who had written letters to the editor, attended and spoken at MVF public board, committee and special meetings about the troubled state of the foundation's financial recordkeeping, reporting and communications. Because of lack of faith in reliability of the financial information and absence of trust of those in power and control, there was an on-going request for outside professionals to conduct a study, audit, examination and/or assessment of the finances. There was little public questioning about "missing money".

From the MV Observer blog **waiting to see said...**

With the elections over, I'll take a wait and see approach for a little while. Hopefully the 3 new board members recently elected to the board can start the process of cleaning up. My biggest concern isn't the small amount of money pilfered from the retirement funds, it's the lack of direction the previous board had in creating a balanced budget that wouldn't eat into the reserves that we have built up. Losing 100's of thousands of dollars a year, what can we say but WOW.

However, beginning with its August 2<sup>nd</sup> 2006 edition, shortly after Zakian "alerted the police", The Gazette began running denials on a regular basis by MVF leaders, especially from Lois Campbell, the MVF media attack dog, that any fraud or embezzlement had taken place.

The Gazette obtained a copy of the police report at the time, day 460, but did not make mention or reference it until its February 7<sup>th</sup>, 2007 edition, day 666. Evidently Sebastian took every opportunity in questioning MVF

leaders about such subjects as the budget process, the annual audit and/or the financial reporting system to make inquires about the possibility of "missing money". Here is a sampling of the litany of responses:

date	source	comments
8/2/2006	Gazette	MVF leaders have not found any money missing in their revenue of the community finances.
8/2/2006	Lois Campbell	"All foundation money has been accounted for...inconsistent bookkeeping and misdirection of funds resulted in the inflated (deficit) number."
8/2/2006	Lois Campbell	In her report she laid out the foundation's plan... promising that the foundation will be more forthright about finances. "But among the things the foundation won't do, is get a new audit." The residents said they were asking for the audit largely due to concerns of malfeasance or fraud. But with bank records still showing that the foundation holds \$8 million in assets Campbell dismisses those claims.
9/6/2006	Gazette	MVF leaders have not found any money missing in their review of community finances.
9/6/2006	Lois Campbell	Campbell said that all foundation money has been accounted for...inconsistent bookkeeping and the <b>misdirection of funds</b> resulted in inflated (deficit) numbers. In her mid-year report promised that the foundation will be more forthright about finances. But the foundation won't get a new audit." The residents were asking for the audit largely due to concerns of malfeasance or fraud. Campbell dismisses those claims. "If there's \$37.21 missing, I wouldn't know it, but hundreds of thousand of dollars missing, which is kind of the implication, absolutely not".
1/30/2006	Gazette	Confirmation of missing money comes after months of financial cleanup and account reconciliation.... Campbell reported last week that all foundations accounts in arrears have been wrapped up through the November 2006 report.

As of February 7<sup>th</sup>, 2006 spin plan B, the "local-police-and-board-of-directors- working-together-to-make-everything-right-with-interest" rendition, was in effect.

On Thursday July 27<sup>th</sup>, 2006 in a closed session of the MVF board of directors John Zakian's resignation was accepted in a unanimous vote of the board. Toni Negro, board vice president, was quoted by the Gazette in its August 2<sup>nd</sup> edition that "neither the deficit nor the lake dispute played a role in Zakian's departure." Were the "missing money" and the general state of the financial affairs, factors in his leaving? Was it even discussed? Why since his departure has there been no admission, acknowledgement or apology for his serious negative impact on the Village? Or was he just following orders? It is possible that the board was still not fully informed? Did his resignation include a negotiated settlement of silence?

### **Why did it happen and how could it have been avoided?**

Marilyn A. Cadoff, a CPA and a resident of The Point gave us the answer when she asked in her letter to the editor of The MV News "...What was the nature of the theft and what weakness (es) existed in the internal controls that allowed the theft to happen?...What internal control(s) are being put into place by the Foundation to prevent this from happening again?"

Internal accounting controls are the administrative procedures, routines, repetitive actions performed in creating and accounting for the financial and accounting books, records, reports, schedules, logs, files and supporting documentation. Standard business practices is to document internal accounting controls in an "Accounting and Financial Policies and Procedures Manual" to ensure compliance with generally accepted accounting practices (GAAP), tax laws, board approved financial administrative and policy resolutions, the governing documents of the association, local, state and federal laws, ordinances, codes, restrictions and regulations governing Common Interest Realty Associations (CIRA) such as the Montgomery Village Foundation.

From "Tips for Protecting Your Association Finances", published by the Community Associations Institute (CAI). One of the important business functions of the board is to oversee the association's financial well-being. Here are 15 tips to help protect association finances.

2. Reconcile bank statements - The board should review bank statements or passbooks to see the bank statements are reconciled timely. The treasurer or other board designee should carefully evaluate the system, its internal controls and reconciliation and calculations prepared by the accounting staff.

9. Establish a policy for signature control - Associations should require 2 signatures for operating cash accounts.

15. Establish good financial procedures - The board must ensure the safety of its financial systems by implementing effective internal control. Here are examples of good checks and balances.

- ☆ Use multiple parties to handle cash, whether assessments or from vending machines, guest fees etc.
- ☆ Require 2 signatures on all checks over a certain amount and on all reserve or investment transactions.
- ☆ Do not allow the person who approves invoices to write checks.
- ☆ Do not allow the person recording receipts to make deposits.
- ☆ Minimize cash transactions.
- ☆ Write all checks to the payee - not to "cash."
- ☆ Pay all employees and vendors with a check.
- ☆ Insist that all payments to the association are made out in the name of the association-not the manager, managing agent, or board members.
- ☆ Deposit checks directly to the association's account on a daily basis or store overnight in a fireproof safe. Reconcile bank statements monthly.
- ☆ Arrange for an annual audit including a management letter from the accountant.
- ☆ Obtain an engagement letter from the association's accountant that defines the work and fees.

From Community Association Finances a collection of articles from Common Ground Magazine published by the Community Associations Institute, (CAI) - "Simple Steps to Avoid Embezzlement" by Alan Crandall.

Divide the labor - Begin by reviewing your internal controls procedures. The more people involved in the process, the more likely wrong doing will be identified. Separate responsibility for issuing check from that of balancing and reconciling statements. Reconcile bank statements promptly within 2 to 3 days of receipt. Ensure authorized signers are not the same person who reconciles the account. Ensure there is adequate supervision. Lack of supervision allows unauthorized access to records and account information or to receive, place and or interrupt calls from the bank.

Essential internal controls - No system is fool proof. But you can make embezzlement more difficult by enacting good internal controls. Start with this check list 16 Essential Internal Controls.

1. Are bank statements reconciled monthly? Legal options may be limited by time that has passed since the act was committed.
2. Are bank statements opened and reviewed by someone other than the person who issues checks.
3. Are employees who are involved in positions of trust bonded?
4. Are all employees in the financial areas of the association required to take 2 consecutive weeks of vacation annually? Break the cover up cycle. Having another person perform the duties of the vacationer may expose theft that was being hidden.
5. Is there adequate supervision at all times? Is somebody reviewing the financial action taken by employees - reviewing checks and periodically spot-checking reconciled statements?
6. Is your mail opened by someone other than the bookkeeper? This prevents an embezzler from intercepting items that might expose the illegal activity.
7. Is a daily listing of checks received by mail prepared by someone other than the bookkeeper? Many associations use a bank's lockbox service to handle their assessment collections.
8. Are cash receipts deposited intact daily? Holdover cash can be stolen.
9. Is the bookkeeper prohibited from signing checks?
10. Are unused checks controlled? Can anyone gain access to them?
11. Is the signing of blank check prohibited?
12. Are signed checks mailed out without being returned to the person who prepared them? Prevent the preparer from changing or modifying the payee by making sure signed checks are never returned to the preparer's desk for mailing.
13. Are checks issued in numbered order? A check issued out of sequence could have been stolen.
14. Are all invoices approved for payment? When paid, are they canceled or marked as paid? This prevents the same bill from being paid repeatedly.
15. Are invoices checked to ensure there are no unexplained past-due notices?
16. Is the integrity of bank accounts and related service passwords or access codes maintained? Keep them secret, and change them regularly. Store the master password record in a secure location, and do not post passwords on or even in the operator's desk.

Seek trust worthy people -

At some level fraud prevention will have to focus on individual board members, managers and staff employees who are responsible for money.

1. Verify relevant information supplied by an applicant previous work history including work history, performance and references.
2. Be alert to changes in employee spending pattern or financial circumstances.
3. Limit board financial control to president and treasurer.
4. Be alert to everything. Consider bring in professional trained eyes and ears.
5. Make a background investigation report including credit and criminal background a pre-employment prerequisite for managers and financial and accounting personnel.

It was reasonable to assume that the offender in this case did just about everything when it came to the retirement program. She was the resident expert on all matters and things. In all probability there was little division of labor. The fraud could have prevented by separating the following from the offender's duties:

1. Receiving of the benefit reports and statements from the benefit manager and
2. Comparing the monthly retirement and saving benefits transfer payments from the MVF payroll transfer accounts and to total and individual enrollees balances with the benefit transfers received with reports and statements from the benefit manager.
3. Preparing and posting summary monthly general ledger posting of payroll and retirement fund activities.
4. Bank account access, signature and/or transfer authority.

Following are MVF comments about internal accounting controls:

3/2/2007	Pat Huson	Internal controls are strengthened by an excellent staff, now in place, who follow advice from our auditors on such matters
6/3/2005	Geraldine Barber	...It's a system of checks and balances...

The last word goes to Keith Silliman, MVF president, quoted in the 2/7/2007 edition of The Gazette to the distinct beat the Zakian ancient chant "I think it's been methodically pursued and based on what I'm seeking, it will be resolved and there will be no loss to the foundation, I think under the circumstances, this is as reasonable an answer as we can expect."