

**STATE OF MINNESOTA
COUNTY OF HENNEPIN**

**DISTRICT COURT
FOURTH JUDICIAL DISTRICT**

COURT FILE NO. 27-CR-15 27597
PROSECUTOR CASE NO. 15A06979
SILS ID. 787989
SILS TRACKING. 2828819
CONTROLLING AGENCY. MNBCA0000
CONTROL NO. 15000103

F
SEP 29 2015
FILED
SEP 29 2015

State of Minnesota,

Plaintiff,

v.

CRIMINAL COMPLAINT

CHILDRENS CHOICE CENTER
2700 Summer St. NE

Summons Warrant
 Order of Detention

Minneapolis, MN

Amended
 Tab Charge Previously Filed

Defendant.

The Complainant, being duly sworn, makes complaint to the above-named Court and states that there is probable cause to believe that Defendant committed the following offense(s):

Count I

Charge: **Theft-By Swindle**

Minnesota Statute: **609.52.2(a)(4)**, with reference to: 609.52.3(2)

Offense Level: **Felony**

Maximum Sentence: **10 YEARS AND/OR \$20,000**

Offense Date (on or about): **04/01/2015**

Charge Description: That on or about April 1, 2015 through June 30, 2015, CHILDRENS CHOICE CENTER, located at 2700 Summer St NE, Minneapolis, Hennepin County, Minnesota, obtained property or services from the Minnesota Child Care Assistance Program by swindling CCAP, using artifice, trick, device or other means, and the property or services had a value in excess of Five Thousand Dollars (\$5,000.00).

STATEMENT OF PROBABLE CAUSE

The Complainant states that the following facts establish probable cause:

Your complainant, Terri Vandergriff, is a Special Agent with the Minnesota Bureau of Criminal Apprehension (“BCA”), and is currently assigned to the Minnesota Department of Human Services (“DHS”) to investigate child care center fraud. Working closely with a team of BCA Special Agents and DHS Investigators, I have investigated the facts and circumstances of this case by reviewing records, conducting in-person and video surveillance of persons and locations, and interviewing witnesses. Based on said investigation, Complainant believes that the following facts establish probable cause to believe that Defendant herein, CHILDRENS CHOICE CENTER, has committed the offenses charged below.

CHILDRENS CHOICE CENTER (“Childrens Choice”) is located at 2700 Summer St NE, Minneapolis, Hennepin County, Minnesota. This investigation has revealed that for the period between April 8, 2015 and April 20, 2015, Childrens Choice repeatedly submitted fraudulent billing requests to receive Child Care Assistance Program (“CCAP”) funds from the State of Minnesota. In total for this time period, Childrens Choice received over \$15,000 to which it was not entitled.

Background on Childrens Choice Center and the Minnesota Child Care Assistance Program

CHILDRENS CHOICE CENTER (“Childrens Choice”) first applied to DHS for licensing in June 2013, and became a licensed child care facility on February 15, 2014. Childrens Choice quickly became a significant recipient of CCAP funds in the State of Minnesota. In 2014, it received nearly \$500,000 in CCAP funds and has far surpassed that amount in 2015, receiving \$1.1 million in CCAP funds as of September 2015. At the same time, the center has received correction orders from the DHS Licensing Division for violations related to record keeping, staff qualifications, training, crib violations, staff distribution, hazards, and cleanliness.

The Minnesota Child Care Assistance Program (“CCAP”) is a program designed to make child care affordable for income-eligible families. Qualifying parents receive assistance for child care costs while they work, job seek, or attend school. The program is administered jointly by DHS and the counties in which the qualifying parent resides. In this case, the vast majority of the parents whose children attend Childrens Choice reside in Hennepin County, Minnesota. After a parent qualifies for CCAP funds, the child care provider manages the process of submitting billing to obtain CCAP funds and the monies are sent directly to the child care provider. In Hennepin County, CCAP bills are submitted electronically via a program called MEC²-Pro. In the case of Childrens Choice, the only authorized billers are Abdirisak Hashi Nur and Saeed Jama Bihi. According to documents submitted by Childrens Choice to DHS, Mr. Bihi is the owner, president, and director of Childrens Choice and Mr. Nur is one of several controlling individuals. Other controlling individuals include Naima Yusuf, whose husband, Abdirizak Ahmed Gayre, owns in part Minnesota Child Care Services (“MCCS”); Mohamed Abdi Sharmarke, whose parents, Mariam Dahir Abdi and Abdi Sharmarke Mohamed, own Minnesota Childcare Academy and formerly held an interest in MCCS; Mahamed Gayre, son of Naima Abdullahi Yusuf and Abdirizak Ahmed Gayre; and Sahra Abdi Muse. MCCS is the largest recipient of CCAP funds in

the state of Minnesota and is also under complaint for submitting fraudulent billing requests to obtain CCAP funds.

“Operation Kids Count” - The Extent of the Fraud

Based on the extraordinary level of billing by Childrens Choice, its connection to MCCS, as well as general intelligence gathered on prevalent child care center fraud schemes in the Metro Area, your Complainant along with BCA and DHS agents and investigators engaged in extensive investigation of Childrens Choice named “Operation Kids Count.”

Beginning in April 2015, a digital video “pole camera” was set up outside of Childrens Choice. The camera was positioned to capture all children who enter and exit the center. The camera ran 24 hours a day until June 2015. Childrens Choice staff, parents and children were not aware of the camera. Following an established viewing protocol, members of Operation Kids Count viewed entire days of video footage, counting the number of children who entered the center. Any question as to whether a person seen entering the center was a child was resolved in favor of the person being counted as a child. Further, a child is counted as attending the center for the full day even if the video shows that the child was only in the center for a short period of time. The video showed a consistent pattern of Childrens Choice billing for far more children than attended the center.

CCAP bills are submitted on a two week billing cycle running from Monday to Sunday. The following chart depicts the extent of the fraud over a 13-day period in April 2015:

Date	Day of Week	Number of Children Observed	Number of Children Billed to CCAP	Difference
4/8/2015	Wednesday	57	78	21
4/9/2015	Thursday	32	74	42
4/10/2015	Friday	45	77	32
4/11/2015	Saturday	51	80	29
4/12/2015	Sunday	48	77	29
4/13/2015	Monday	62	74	12
4/14/2015	Tuesday	Not reviewed	-	-
4/15/2015	Wednesday	57	77	20
4/16/2015	Thursday	40	84	44
4/17/2015	Friday	48	74	26
4/18/2015	Saturday	Not reviewed	-	-
4/19/2015	Sunday	50	77	27
4/20/2015	Monday	56	65	9
	Totals	546	837	291

Accordingly, during this 13-day period in 2015, Childrens Choice billed for 291 children who did not actually attend the center. Put otherwise, approximately 35% of Childrens Choice billing was fraudulent.

The amount that CCAP will pay a child care provider varies by the type of care provided, the age of the child, the amount of time the child spends in day care, and by county. The current daily rates for child care centers in Hennepin County are:

- Infant: \$86.24;
- Toddler: \$64.15;
- Pre-School: \$57.84;
- School Age: \$53.74.

In counting the number of children observed entering Childrens Choice, rather than attempting to estimate the age of the child based on the video, all children were counted as if they were school age and therefore billed at the lowest rate. The actual age breakdown for the children for whom Childrens Choice submitted billing varied each day, but for the days detailed above, in sum and excluding the days for which video was not reviewed, Childrens Choice billed for 85 infants, 101 toddlers, 223 preschool, and 428 school age children. It is important to note that Childrens Choice also billed 22 kids as absent for these days.

Accordingly, when calculating the degree of the fraud, this complaint uses the lowest billing rate of \$53.74 for school age children, even though many of the children seen entering the center were likely younger and therefore billed at higher rates. Under this method of calculation, for this 13-day period in April 2015, Childrens Choice fraudulently received \$15,638.34 to which it was not entitled.

Childrens Choice Finances

Child care centers can submit electronic bills for CCAP funds to each county where the children who attend the center reside. When submitting an electronic bill, the biller enters all pertinent information including the names of children attending, the days and hours, and amount of payment due. Although both Mr. Bihi and Mr. Nur are approved billers for Childrens Choice, Mr. Bihi submitted all of the electronic bills for the period of April 2015 through June 2015. As owner, president, and director of Childrens Choice, Mr. Bihi was acting within the scope of his employment when he submitted bills for CCAP funds on behalf of Childrens Choice.

Once a county receives a bill, the county sends the payment funds electronically to the Minnesota Department of Human Services (“DHS”). After DHS receives the payment funds, DHS sends an electronic deposit to the child care center’s bank account. In the case of Childrens Choice, CCAP deposits are made directly into the Childrens Choice Business Checking account at US Bank, account ending in 1906. The account ending in 1906 was opened in June 2013. Naima Yusuf, Mr. Nur, and Mr. Bihi are all authorized signers on the account.

An analysis of the Childrens Choice bank account ending in 1906 shows how the ill-gotten funds are distributed. For the month of April 2015, Childrens Choice received CCAP payments totaling \$139,219.48 into the account ending in 1906. The vast majority of the funds are distributed via traditional checks. In April 2015, checks issued from the account ending in 1906 totaled \$104,622.94 and included payroll as well as payments for other business expenses such as to food vendors and for maintenance. Hence, once the CCAP money was deposited into the Childrens

Choice US Bank Business Checking account, account ending in 1906, the money was used for business purposes, thus benefiting the company and its owners.

Conclusion:

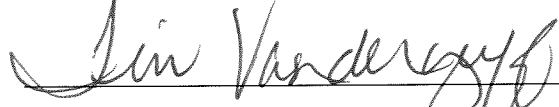
In total, the camera in place outside of Childrens Choice obtained 61 days of video between April 8, 2015 and June 7, 2015. Only 13 days of that video has been reviewed, and it shows consistent gross overbilling. Your complainant believes that once the additional 48 days of video is viewed, and the number of children who actually attended the center is compared to the bills submitted for those same days, a similar level of fraud will be discovered. Based on this evidence, your Complainant believes that probable cause exists that Childrens Choice, through its agents while acting within the scope of their authority, committed the crimes charged herein.

Complainant requests that Defendant, subject to bail or conditions of release, be:
(1) arrested or that other lawful steps be taken to obtain Defendant's appearance in court; or
(2) detained, if already in custody, pending further proceedings; and that said Defendant otherwise be dealt with according to law.

COMPLAINANT'S NAME:

Terri Vandergriff

COMPLAINANT'S SIGNATURE:

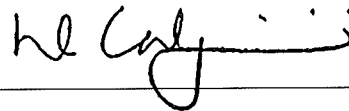


Subscribed and sworn to before the undersigned this 28 day of sep, 2015.

NAME/TITLE:

H. Caligiuri, Dist. Ct. Judge

SIGNATURE:

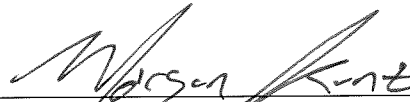


Being authorized to prosecute the offenses charged, I approve this complaint.

Date:

9/28/15

PROSECUTING ATTORNEY'S SIGNATURE:



Name: Morgan Kurz
Assistant County Attorney
C2000 Government Center

Minneapolis, MN 55487
612-348-0817
Attorney Registration # 0396177

FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant's arrest or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention, if already in custody, pending further proceedings. Defendant is therefore charged with the above-stated offense.

SUMMONS

THEREFORE YOU, THE ABOVE-NAMED DEFENDANT, ARE HEREBY SUMMONED to appear on the ___ day of _____, 20__ at _____ a.m./p.m. before the above-named court at _____ to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

WARRANT

To the Sheriff of the above-named county; or other person authorized to execute this warrant: I hereby order, in the name of the State of Minnesota, that the above-named Defendant be apprehended and arrested without delay and brought promptly before the above-named court (if in session), and if not, before a Judge or Judicial Officer of such court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or Judicial Officer is available to be dealt with according to law.

Execute in MN Only *Execute Nationwide* *Execute in Border States*

ORDER OF DETENTION

Since the above-named Defendant is already in custody, I hereby order, subject to bail or conditions of release, that the above-named Defendant continue to be detained pending further proceedings.

Bail: \$
Conditions of Release:

This complaint, duly subscribed and sworn to, is issued by the undersigned Judicial Officer this 28 day of sep, 2015.

JUDICIAL OFFICER:
NAME: H. Caligiani
TITLE: Dist. Ct. Judge

SIGNATURE:
H. Caligiani

Sworn testimony has been given before the Judicial Officer by the following witnesses:

COUNTY OF HENNEPIN
STATE OF MINNESOTA

Clerk's Signature or File Stamp:

STATE OF MINNESOTA

Plaintiff,

vs.

Defendant

RETURN OF SERVICE

I hereby Certify and Return that I have served a copy of this COMPLAINT upon Defendant herein named.

Signature of Authorized Service Agent: