

STATE OF MINNESOTA
COUNTY OF HENNEPIN

FILED
SEP 29 2015

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

COURT FILE NO. 27-CR-15- 27599
PROSECUTOR CASE NO. 15A05819
SILS ID. 787972
SILS TRACKING. 2828830
CONTROLLING AGENCY. MNBCA0000
CONTROL NO. 13000578

State of Minnesota,

Plaintiff,

v.

MINNESOTA CHILD CARE SERVICES, INC.
2500 Minnehaha Ave

Minneapolis, MN

Defendant.

CRIMINAL COMPLAINT

Summons Warrant

Order of Detention

Amended

Tab Charge Previously Filed

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(1)

Offense Level: **Felony**

Maximum Sentence: **20 YEARS AND/OR \$100,000**

Offense Date (on or about): **11/15/2014**

Charge Description: That on or about November 15, 2014 through December 31, 2014, MINNESOTA CHILD CARE SERVICES, INC., located at 2500 Minnehaha Ave., 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 Thirty-Five Thousand Dollars (\$35,000.00).

Count II

Charge: **Theft-By Swindle**

Minnesota Statute: **609.52.2(a)(4)**, with reference to: 609.52.3(1)

Offense Level: **Felony**

Maximum Sentence: **20 YEARS AND/OR \$100,000**

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

Charge Description: That on or about January 1, 2015 through March 31, 2015, MINNESOTA

CHILD CARE SERVICES, INC., located at 2500 Minnehaha Ave., 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 Thirty-Five Thousand Dollars (\$35,000.00).

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, MINNESOTA CHILD CARE SERVICES, INC., has committed the offenses charged below.

MINNESOTA CHILD CARE SERVICES, INC. ("MCCS") is located at 2500 Minnehaha Ave., Minneapolis, Hennepin County, Minnesota. This investigation has revealed that between November 15, 2014 and May 31, 2015, MCCS, repeatedly submitted fraudulent billing requests to receive Child Care Assistance Program ("CCAP") funds from the State of Minnesota. In total during this time period, MCCS received over \$184,000 to which it was not entitled.

Background on MINNESOTA CHILD CARE SERVICES, INC. and the Minnesota Child Care Assistance Program

MINNESOTA CHILD CARE SERVICES, INC. ("MCCS") submitted its initial licensing request to DHS in 2011 and became a licensed child care facility in April 2012. By 2013, MCCS was the single largest recipient of CCAP funds in the State of Minnesota, receiving \$2.7 million in 2013 and \$3 million in 2014. The center is again on track to be the largest recipient of CCAP funds in the State of Minnesota in 2015. The center has repeatedly 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 MCCS 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 MCCS, two individuals are authorized to submit billing records – they are Abdirizak Ahmed Gayre and Ibrahim Awgab Osman. Mr. Gayre is one of the original owners of MCCS. He signed the licensing application in 2011 and has been listed as an owner on all subsequent submissions to DHS. According to records on file with the Minnesota Secretary of State, MCCS was incorporated in April 2012 and Mr. Gayre is the Chief Executive Officer.

“Operation Kids Count” - The Extent of the Fraud

Based on the extraordinary level of billing by 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 MCCS named “Operation Kids Count.”

Beginning in November 2014, a digital video “pole camera” was set up outside of MCCS. The camera was positioned to capture all children who enter and exit the center. The camera ran 24 hours a day until May 2015. MCCS 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 MCCS 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 single billing cycle in November and December 2014:

Date	Day of Week	Number of Children Observed	Number of Children Billed to CCAP	Difference
11/24/2014	Monday	111	172	61
11/25/2014	Tuesday	107	180	73
11/26/2014	Wednesday	95	180	85
11/27/2014	Thursday	0	14	14
11/28/2014	Friday	60	151	91
11/29/2014	Saturday	74	148	74
11/30/2014	Sunday	74	153	79
12/1/2014	Monday	109	172	63
12/2/2014	Tuesday	103	180	77
12/3/2014	Wednesday	88	180	92
12/4/2014	Thursday	124	182	58
12/5/2014	Friday	78	156	78
12/6/2014	Saturday	97	155	58
12/7/2014	Sunday	113	160	47
Totals		1233	2183	950

Accordingly, during this two week period in 2014, MCCS billed for 950 children who did not actually attend the center. Meaning that more than one-third of the billing submitted 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 M CCS, 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 M CCS submitted billing varied each day, but on November 24, 2014, M CCS billed for 20 infants, 13 toddlers, 35 preschool, and 104 school age children.

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, during this two week of Nov. 24, 2014 through Dec. 7, 2015, as detailed above, M CCS fraudulently received \$51,053 to which it was not entitled.

As seen on the table above, for Thanksgiving Day 2014, M CCS billed for 14 children even though no children actually attended the center. That was not an isolated occurrence as M CCS routinely billed for days on which no children actually attended, as shown in the following table.

Date	Number of Children Observed	Number of Children Billed to CCAP	Difference
Thursday, Dec. 25, 2014	0	5	5
Friday, Dec. 26, 2014	0	34	34
Monday, Jan. 19, 2015	0	16	16
Monday, May 25, 2015	0	44	44

The camera in place at M CCS obtained 198 days of video. Designated members of Operation Kids Count have reviewed 67 days of video, or approximately one-third of the available video. Based on the video watched to date, on average, the center claimed that 146 children attended each day, but the video reveals that on average only 94 children attended each day. It should be noted that the averages provide a view on the scope of the fraud, but the actual numbers varied widely per day. Your complainant does believe, however, that a viewing of the complete available video will reveal even greater fraud than detailed in this Complaint.

M CCS's Finances

Minnesota Childcare Services opened a US Bank Business Account in May 2011, account number ending 6384, and elected to have all CCAP funds deposited into that account. Mr. Gayre established the account with a then co-owner of M CCS, and Ms. Osman was added as a

signatory on July 8, 2014. Since the account's inception, over \$8 million dollars in CCAP funds have been deposited in that account. CCAP funds continue to be deposited into the account today.

An analysis of this bank account shows that MCCS uses it for general operating expenses, such as payroll and rent, but also transfers large amounts of the money to other accounts held in name of the company and/or its owners. Using the CCAP billing period of Nov. 24, 2014 through Dec. 7, 2015, as an example, shows how the ill-gotten funds are distributed throughout the company and to its owners and employees. As explained above, during this billing period MCCS billed for 950 children who did not attend the center and fraudulently received \$51,053 to which it was not entitled. CCAP billing records submitted by MCCS for this billing period were transmitted by Mr. Osman, acting within the scope of his employment and on behalf of the company, and were entered into MEC²-Pro on Dec. 8, 2014. MCCS received the funds from this billing period via electronic transfer on Dec. 17, 2014. The transfer, totaling \$117,582.88, mostly covered the same billing period, meaning that more than one-third of the CCAP funds received in that billing period were based on fraudulent CCAP billing submissions.

Once this \$117,582.88 in CCAP money was deposited into MCCS's US Bank Business Account, ending in number 6384, the money was used for a myriad of business purposes, including taxes, credit card debts, and other expenses. Much of the money, however, was transferred to another MCCS account, ending in account number 2800. From this account the money was also used for payroll, rent, and other general operating expenses. Both of the billers for MCCS – Mr. Osman and Mr. Gayre – received payroll payments from MCCS during this time period. A similar pattern of spending has been identified throughout the entire time that MCCS has used this account to obtain the CCAP funds, spanning from May 2012 until March 2015. Namely, fraudulently obtained CCAP funds are deposited into MCCS controlled bank accounts and are used for the benefit of the company and its owners.

Based on this evidence, your Complainant believes that probable cause exists supporting a conclusion that MCCS, through its owners, employees and agents, while acting within the scope of their authority, committed the crimes charged herein.

Conclusion:

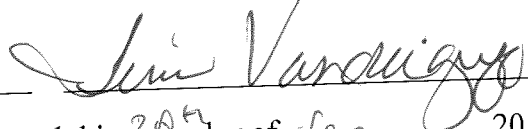
MCCS's submission of fraudulent CCAP billing records resulted in the company obtaining \$184,650.64 to which it was not entitled. This overpayment amount covers only 67 days spanning from November 2014 through May 2015. Your complainant believes that once the additional 131 days of video of MCCS is viewed, and the number of children who actually attend the center is compared to the bills submitted for those same days, a similar level of fraud will be discovered.

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:

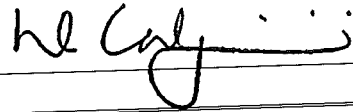


Subscribed and sworn to before the undersigned this 20th day of Sept, 2015.

NAME/TITLE:

Dist. Ct. Judge H. Caligiuri

SIGNATURE:

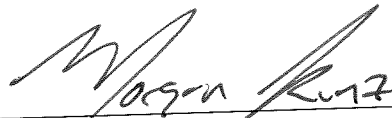


Being authorized to prosecute the offenses charged, I approve this complaint.

Date:

9/25/15

PROSECUTING ATTORNEY'S SIGNATURE:



Name: Morgan Kunz
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 28th day of sep., 2015.

JUDICIAL OFFICER:
NAME: CALEIGH
TITLE: district ct judge

SIGNATURE:
[Handwritten Signature]

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

<p>COUNTY OF HENNEPIN STATE OF MINNESOTA</p> <p>STATE OF MINNESOTA</p> <p>Plaintiff,</p> <p>vs.</p> <p>Defendant</p>	<p>Clerk's Signature or File Stamp:</p> <p><i>RETURN OF SERVICE</i></p> <p><i>I hereby Certify and Return that I have served a copy of this COMPLAINT upon Defendant herein named.</i></p> <p>Signature of Authorized Service Agent:</p>
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