

An Overview of the Barry Minkow Case

Recognizing Fraud

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Fraud in Federal Court: Basics

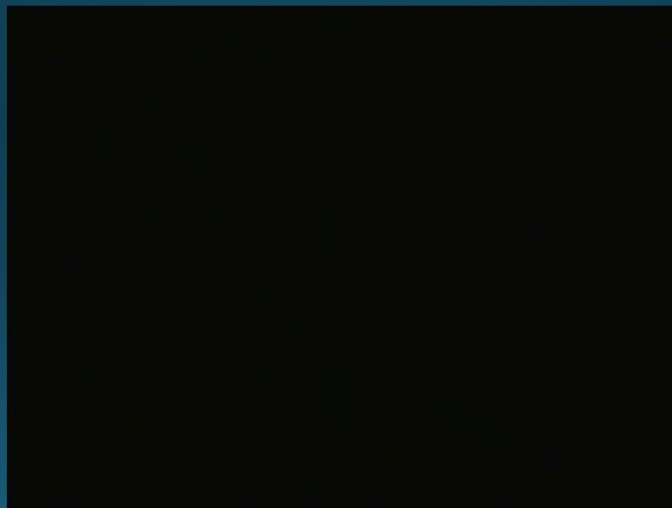
- Limited Jurisdiction – Generally a Federal Government Interest or Interstate/Foreign Commerce Nexus
- Statutes – Wire Fraud (18 U.S.C. § 1343); Mail Fraud (18 U.S.C. § 1341); Bank Fraud (18 U.S.C. § 1344); among others
- Federal Sentencing Guidelines for Fraud – Driven by Loss Amount.
 - Higher the loss the longer the Guidelines sentence.
 - Figuring out the amount of loss is therefore of critical importance to our cases.

Fraud in Federal Court: Basics

- Cases can be both reactive (crime already happened) and proactive (crime is ongoing).
- Cases get their start in various ways:
 - Whistleblowers/Complainants
 - Self-disclosure by companies
 - Referrals by attorneys
 - Investigative journalism
 - Other cases
 - Among other ways



Barry Minkow - Wall Street Wunderkind



Barry Minkow - Wall Street Wunderkind

- In 1982 at age 16 Barry Minkow started a carpet cleaning company in his garage called ZZZZ Best Cleaners.
- Minkow had capital problems from the beginning.
- Minkow's appetite for risk grew and he started raising money from investors:
 - Minkow claimed that ZZZZ Best had a "restoration" business. This business was almost entirely fake.
 - When Minkow wanted to take his company public, he faked a restoration job to fool the auditors.

Barry Minkow - Wall Street Wunderkind

- In December 1986, Minkow took ZZZZ Best Carpet public, and Minkow became the youngest person to ever head a publicly traded company.
- By March 1987, Minkow's shares were worth \$64 million. They were later worth as much as \$110 million.
- At 20 years old, Minkow had a mansion in Woodland Hills, a Ferrari, and a BMW.
- Minkow became a darling of the press, and appeared on Oprah.

Barry Minkow – Wall Street Wunderkind

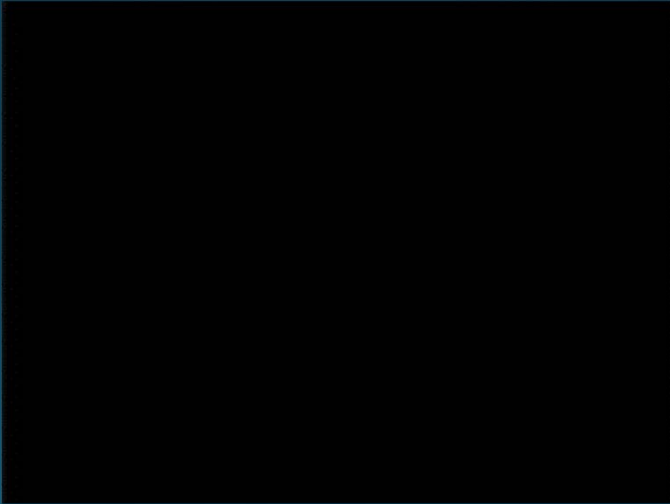


Barry Minkow – The Unraveling

- Customers who were victims of Minkow's credit card fraud began complaining to the press.
- It turned out that, prior to going public, ZZZZ Best was a Ponzi scheme.
- The articles and ensuing revelations tanked ZZZZ Best's stock, and investors ultimately lost more than \$100 million.
- Minkow was convicted of 57 counts of fraud, including conspiracy to commit securities and mail fraud, mail fraud, securities fraud, bank fraud, tax fraud and money laundering among other counts, following a jury trial.
- Minkow was sentenced to 25 years of custody.



How Did He Do It?



Barry Minkow – The Redemption

- Minkow found God in prison and earned masters degrees in divinity and church through Liberty University.
- After Minkow's release from custody (he was paroled in 1995), he became a senior pastor at San Diego Community Bible Church in 1997.
- Under Minkow's leadership and charismatic style the church membership grew.



The Fraud Discovery Institute

- In 2001 Minkow founded the Fraud Discovery Institute, a for profit organization.
- Company offered trainings on how to detect fraud.
- Company also detected and exposed fraud to law enforcement and the public.
- Minkow assisted the FBI, the SEC, and others in shutting down at least 20 serious Ponzi schemes.

Barry Minkow – The Second Unraveling

- Minkow started shorting companies before he released a report accusing them of fraud.
- Minkow also started settling with companies and withdrawing allegations of fraud.
- In the fall of 2008 a San Diego real estate entrepreneur hired Minkow to proactively go after a huge real estate company – Lennar.
- Minkow published entirely unsubstantiated claims of fraud against Lennar to artificially depress Lennar's stock price, and tried to leverage those claims to force Lennar to settle.

**FRAUD
ALERT**

Barry Minkow – The Second Unraveling

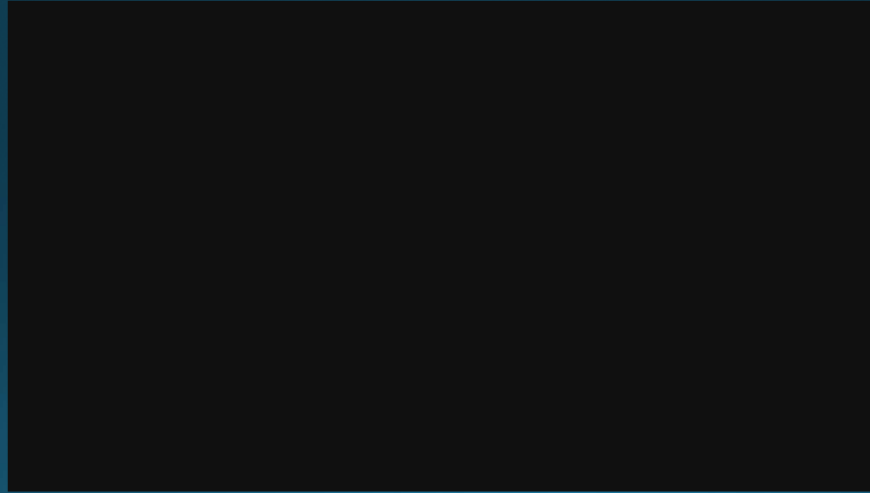
- During this same time period, church elders realized that the church's income was running \$28,000/ month below projections.
- They also learned that Minkow had commingled his funds with church funds.
- The church later learned that Minkow obtained loans for the church and took the money.
- Minkow opened bank accounts in the church's name without telling church leadership.
- Minkow was soliciting donations from the church where he was a pastor, and then stealing that money for himself.
- Records reflect that over 10 years Minkow stole \$1.6 million from the church where he was pastor.

Barry Minkow – The Second Unraveling

- Minkow pled guilty in Miami, FL to one count of conspiracy in relation to the Lennar matter.
- Minkow pled guilty in San Diego, CA to one count of conspiracy, in relation to the church fraud.
- Minkow was sentenced to 5 years custody in the Florida matter, and 5 years consecutive custody in the San Diego matter.



Why?



Fraud – Things to Look For

- Lies
- Outliers/Numbers that do not make sense
- Unexplained wealth/cash deposits
- Unexplained accounts/vendors
- Employee refusal to take time off
- Lack of corroboration
- Gut feeling



Where Do YOU Think You Would Find the Fraud?

- What impact do any of these fraud schemes have on the company's financial statements?
- If the church came to you indicating that they had \$28,000/month less than expected, where would you look?
- If you had been evaluating ZZZZ Best's financial statements, what would you have looked for?
- How could the church fraud been prevented? How could it have been caught earlier?

Final Thoughts