

## **“LEGALIZED” CRIMES IN SURROGATE’S COURTS**

This hearing is the beginning of hope for the Public that a new day has begun in our aspiring democratic society with its promised guaranteed rights.

It is not an exaggeration to say that New York State Surrogate’s Courts have become an organized criminal enterprise. Collusion among “pay-to-play” attorneys means that there is no remedy available to the Public through the Office of Court Administration, nor through the professional disciplinary committees, nor through Administrative Judges. Among the Public it is not a secret that there is no means to redress grievances through government agencies. Fundamental guaranteed rights are routinely violated by lawyers under the color of judge-made state law in these courts of limited jurisdiction.

Collusive lawyers knowingly and willingly ignore violations of professional ethical requirements. Lawyers hired by beneficiaries readily betray the clients for multi-million dollar profit and future political influence promised by the clients’ adversaries and the court. This fact is amply demonstrated by Eve Markewich, a politico who unsuccessfully grabbed for New York County Surrogate. Markewich wrote an article for the New York Law Journal detailing the gross violations of ethics against Agnes Carvel that Markewich observed. Markewich took no action whatsoever, other than writing an article boasting about the violations, which she ignored. As lawyer for Agnes Carvel’s estate, Markewich concealed the information. In exchange for \$4 million, Markewich agreed to obstruct all funds from reaching Agnes’ estate and to divert all assets into the control of fellow lawyer William Griffin, controlling shareholder of Hudson Valley Bank. Griffin through his bank provided \$400,000 in “loans” to Surrogate Scarpino just prior to the commencement of *Carvel* trials in which Markewich represented Agnes’ estate. See, Eve Markewich, *Getting Grounded on Ethical Dilemmas*, NYLJ, February 14, 2005 (Exhibit A).

It is a crime to deprive the Public honest services.

The Public as citizen in an aspiring democracy is owed a duty of care and adherence to the intent of legislated laws.

The Public as benefactor or beneficiary of tax-exempt charities is entitled to diligent exercise of the promised protections of the New York State Attorney General to ensure the duty of loyalty to charitable intentions so that the tax-exempt dollars are not being abused in private profit.

The Public as investor and entrepreneur in an aspiring free enterprise system is entitled to the truth and the full force of fiduciary duty from business, banks, and lawyers, not a street-run shell game that runs for as long as the Public can be hoodwinked.

It is not a coincident that the pattern of corruption that has been festering for decades in collusion with Surrogate’s Court proceedings has now burst into the Public consciousness through other venues. The pattern of criminal enterprises that has worked so successfully in defrauding dead asset owners for years are the same criminal enterprises by business, banks, and lawyers that were transferred to the living asset-owner sector with the confidence of success gained from years of practice in Surrogate’s Courts.

The general public does not come across such schemes until it is too late. Once dead it is hard to complain. Once dead it is hard to object to fraud, forgery, or destruction of documents. For those who remain as the beneficiaries of the dead, they are often too young, too old, or too infirmed to be able to defend what they know as true against the “professional” mumbo-jumbo thrown at them by judges, lawyers, and bankers, whose profit depends on theft from those same beneficiaries.

The most superficial investigation of Surrogate’s Court proceedings revealed over 20 years of thousands of ways to steal, threaten, coerce, and even murder (usually felony murder). County judge-made law by a court of limited jurisdiction legitimizes these crimes for the pay-to-play lawyers, bankers, and politicians who operated under the guise of “court-approval” or with the court’s silent acquiescence.

### **PROBLEMS IN SEEKING JUSTICE**

Surrogate’s Court has contrived a system that is a pattern of “conspiracy” under NY Penal law s.105.00-105.35 and “larceny” s.155.00-155.42 executed by means of “coercion” s.135.60-135.65. By this contrived enterprise, justice is almost unavailable to beneficiaries. Complete unbridled control of all assets belonging to the beneficiaries is passed to bankers, lawyers and other politicians who are “friends” of the judge. “Friends” overtly and covertly make payments to the judges, to the judges “election campaigns”, or to family members, in such a manner that there is no disclosure required under current regulations.

Exposure of this system has occurred via the newspapers resulting in the indictment of Kings County Surrogate Michael Feinberg. Despite media articles about the same enterprises in several counties and states, this corrupt criminal enterprise remains off the radar for law enforcement and tax enforcement. The secret enterprises continue primarily because of the political clout wielded by the perpetrators who have stolen **billions** of dollars. (See articles in *Forbes* magazine, *Portfolio* magazine, *Worth* magazine, *Daily News*, *Newsday*, *Journal News*, *New York Times*, *Miami Herald*, *St. Petersburg’s Times* “*Final Indignities*”, etc.)

The enterprises continue partly because public servants are too busy looking somewhere else, doing something else, but not “minding the store”. Accountability is easily sidestepped as we all are now seeing through Wall Street’s corporate and investment scandals.

### **HOW THE ENTERPRISE WORKS**

The enterprise works like this:

- The court does not keep actual public minutes or dockets of papers filed, and whatever lists the court does have are almost impossible for the public to obtain.
- The court backdates entries to manipulate the record, as in the *Estate of Margaret McKeown* (Westchester County) where a forged assignment allegedly made by a felony-murder victim was entered on the court “docket” years after the fact.

- Without true dockets of the filings, it is impossible for a beneficiary to review the record to know what transpired under the guise of “court approval” – and impossible to know when the files have been altered or “sanitized” to fit the desired outcome.
- New York State Assistant Attorney General Laura Werner is responsible for overseeing proceedings in several contested estates and trusts still open Westchester Surrogate’s Court on behalf of the benefactor and Public interest in charities. Even a Freedom of Information request yields NOTHING from Werner for files she received in every estate and trust proceeding for 20 years, even through the estate and trust proceeding are still open. The AG’s written policy is to maintaining litigation records for 20 years after the matter is closed, Werner denies having any files for currently open contested proceedings (such as the *Carvel* estates and *McKeown* estate in Westchester County). Werner never appears at conferences. Werner never supports challenges by the benefactors of charity against the abuses of their restricted charitable funds. Werner makes no objection to multi-million dollar decades of litigation paid from restricted charitable funds.
- The court can issued, or alter and backdate, Letters Testamentary to non-existent entities to aid and abet in banking fraud, such as in the *Estate of Edmund McCormick* (Westchester County). After Bankers Trust became a convicted felon for estate/trust fraud, another bank entity that did not exist at the date of the Will and that was not named executor, was named on the Letters Testamentary as executor of the estate. No substitution proceeding took place. No notice was given to the beneficiaries or co-executors. To date, the fraudulent bank executor rules over ALL money, to the exclusion of Suzanne McCormick as widow and co-executor.
- All funds, including mandatory income under the marital deduction, are withheld from the rightful beneficiary, especially the surviving widows. Agnes Carvel, Suzanne McCormick, Evelyn Goldberg and others are denied ALL funds. All mandatory income required to be paid annually under the marital deduction estate tax exemption is withheld. Equal indemnification of legal fees to a beneficiary-fiduciary is denied. All funding is obstructed for the alleged testamentary trust for which the QTIP estate tax exemption was claimed. Intentional tax fraud is orchestrated with Surrogate’s Court acquiescence or direct order, knowing that an elder widow without money will soon perish.
- If a widow does object to being deprive of mandatory income, a guardian ad litem is appointed to wipe out the widow’s claims. See the *Estate of Thomas Carvel* (Westchester County) where THREE successive guardians ad litem were appointed until Agnes Carvel’s felony murder was finally procured to silence her claims and eliminate her standing. Also see the *Estate of Simon Goldberg* (New York County) where a guardian ad litem was appointed for widow and sole beneficiary Evelyn Goldberg to silence Evelyn’s claims about financial frauds, although Evelyn herself qualified as guardian for others in family court and housing court.
- All estate, trust, or corporate funds are kept under the exclusive control of the judge’s “friends” -- without limit, and without scrutiny by any beneficiary or fiduciary that

opposes such “friends”. Such funds are fully disposable by the strangers who are the beneficiaries’ adversaries, without notice to or consent from the beneficiaries and creditors of the estate or trust. This one-sided, unlimited litigation slush fund is the prime force in the “legalized” theft of assets because without money there can be no objective, effective professional assistance for those being victimized. *Pro se* litigants are labeled “paranoid”, “dangerous”, or kooks by judges as in a TV interview with New York Southern District Federal Judge Charles Briant.

- Any fiduciary assisting victimized beneficiaries who oppose the judge’s “friends”, is denied indemnification of legal fees, and certainly denied equal treatment to those unlimited amounts provided to the “friends” for litigation against the beneficiaries.
- Any lawyer who dares to support a client who is beneficiary and opposes victimization and tax fraud, is threatened with financial sanctions, jail, disbarment, or other personal and professional threats that constitute criminal coercion (NY Penal Law s.135.60-135.60-135.65), even when the lawyer is doing no more than what is ethically mandated to defend the client’s interests.
- The judge may withhold decisions for over 60 days (contrary to the “60-day rule). Decisions have been withheld for as much as 2 years, 5 years, or more. No decision, no appeal.
- The judge may render a decision by transcript. A transcript cannot be appealed.
- The judge may deny a trial by jury where the outcome must be in favor of the judge’s “friends”.
- The judge may withhold trial for 10 years, 20 years, or more – all the while allowing the judge’s “friends” to draw down, divert, ruin, and embezzle ALL funds or assets in question.

Victims of court crimes have been very vocal to the U.S. and State Attorney Generals, County District Attorneys, Office of Court Administration, Commission on Judicial Conduct, County disciplinary committees, New York State Department of Banking, I.R.S., and other agencies, but to no avail (similar to the complaints against Bernard Madoff that went on for years). There was no surprise to Surrogate’s Court victims when recent news revealed the same types of complaints regarding the crimes of Enron, Madoff, and others fell on deaf ears for decades.

White-collar crime is regarded as “victimless” because the theft is presumed to be only material. Vendettas against a small number of high-profile actors are used as showpieces for public consumption but the overwhelming numbers of true financial criminals are seldom actually held accountable.

When such crimes are prosecuted, there is usually no restitution to the individuals who are victimized, even when there may be severe penalties paid to government agencies. As example, in the *Carvel* estates, Francis Zarro, a bankruptcy lawyer, used his knowledge to fleece millions

in a series of phony real estate investments. The court stated it wouldn't even try to recover the proceeds of the crimes, although there was a paper trail. Restitution could not be pursued because for almost 20 years Zarro's cohorts operating in Thomas Carvel's estate denied all funds to Agnes Carvel (sole beneficiary) and to Agnes' estate.

What is completely overlooked is the fact deaths are procured deliberately and as a side effect during the commission of these financial felonies, or as a result of the damages, threats and distressed caused to victims in the pursuit or cover-up of such felonies. Agnes Carvel's death was a result of the felonies of conmen William Zuga and Francis Zarro, and was procured deliberately by criminal coercion by Westchester Surrogate Albert Emanuelli in an attempt to stop the investigations on Agnes' behalf that led to successful criminal convictions.

Additionally, through the Surrogate's editorial comments in decisions, transcripts, and speeches, the court facilitates prevailing perceptions that only "The Rich" and their "disgruntled relatives" are having problems. This is done intentionally to foster disinterest from law enforcement and the average person, because they wrongly believe such crimes would never happen to the general public. In truth, for the benefit of total strangers, Surrogate's Court schemes victimize everyone: the sick, the alone, the elders in nursing homes; the disabled youths; the infants and orphans; the elder surviving spouse or parents; or the intended legitimate charity.

When Kings County Surrogate Michael Feinberg was convicted, apparently there was no restitution to the beneficiaries victimized; apparently his corrupt judge-made laws were not revoked. Feinberg's crimes prevailed. **Crime pays big in Surrogate's Court.** The average victim has little or no recourse because of "judicial immunity" until a "sting" is used such as the one that caught Feinberg. Identical crimes exist in New York County, Westchester County, Dutchess County, and Richmond County.

### **THE NEW "BROWN PAPER BAG"**

Surrogate's Court criminal enterprises engage in new innovations on the old time "brown paper bag" method of bribery and influence peddling for favored court decisions resulting in county judge-made state law, from a court of limited jurisdiction, that purports to be able to deny rights equally guaranteed to all citizens under U.S. laws. By depriving equal access to estate funds to the abused family members and the fiduciaries that advocate on the family's behalf, this enterprise flourishes.

A review of Westchester County public election records appears to indicate that Anthony Scarpino was given an unsecured loan of \$100,000 by Hudson Valley Bank prior to his 2000 election as Surrogate. It appears that such payment was in anticipation of future favorable rulings in the Carvel estates for the benefit of Hudson Valley Bank, the politicians who form the Hudson Valley Bank Business Development Board, and the Bank's controlling shareholder William Griffin, who fraudulently transferred Carvel assets to the Bank by stealing control of the "Thomas and Agnes Carvel Foundation" through fraud and forgery.

A review of the Westchester County Clerk records further indicate that Hudson Valley Bank gave Surrogate Scarpino additional "loans" of \$200,000 just prior to trials in the *Estate of*

*Thomas Carvel* and another \$100,000 just prior to the commence of trials in the *Estate of Agnes Carvel*.

Hudson Valley Bank's controlling shareholder William Griffin appeared as a witness before Scarpino. Neither Scarpino nor Griffin, a lawyer, disclosed their covert financial relationship. Griffin has operated as the primary agent in charity frauds against the Carvel estates for almost 20 years. Without notice or satisfaction paid to beneficiaries or creditors, Scarpino allowed Griffin to transfer Agnes Carvel's \$10 million dollar 19-acre residence in Ardsley, New York to Hudson Valley Bank for an alleged \$2 million loan on paper.

Investigation are seeking to verify the suspicion that payments are made to Scarpino's wife who is a court reporter, as another innovation on the "brown paper bag".

### **CHANGES MUST BEGIN NOW**

The evidence of the crimes is not obscure. It is astonishing how abundant and how blatant the evidence really is. The problem until now was that each case appeared isolated, one-of-a-kind, and each beneficiary had no knowledge of the others. Each beneficiary is driven to destitution as punishment for objecting to these crimes. Any honest lawyer who attempts to assist the victims is illegally coerced by threats of jail or by bribery to betray the clients with inaction, or ineffective actions. When the victims have the ability to fight-on, as *litigants in person*, they are labeled "paranoid", "frivolous", "disgruntled", or any other derogatory term to summarily dismiss complaints brought by unsophisticated, non-lawyers.

Government now has the choice of cleaning house from within, or watching another explosion of Public Opinion rock the current environment of white-collar crime disclosures. Government can become either the solution or the problem.

Reference herein shall be made to the following cases:

*Estate of Thomas Carvel*, Westchester Surrogate's Court  
*Estate of Agnes Carvel*, Westchester Surrogate's Court  
*Estate of Margaret McKeown*, Westchester Surrogate's Court  
*Estate of Edmund McCormick*, Westchester and Dutchess Surrogate's Courts  
*Estate of Marsh*, Westchester Surrogate's Court; New York Surrogate's Court  
*Estate of Simon Goldberg*, New York Surrogate's Court  
*Estate of Evelyn Goldberg*, New York Surrogate's Court  
*Estate of August Dinger*, Richmond Surrogate's Court  
*Estate of Smithers*, Nassau Surrogate's Court

**The crimes by the court directly, or aided and abetted by the court, include:**

Conspiracy  
Coercion  
Forgery  
Fraudulent business records  
Larceny  
Obstruction of justice  
Perjury  
Stalking  
Tax fraud, fraudulent election of marital and QTIP deduction; income/capital gains concealment

**Bank fraud by banks and their "friends" or employees:**

check conversion by forged signature or forged endorsement;  
fraudulent accounting practices in estates and trusts to defraud beneficiaries;  
forged or missing documents allegedly opening or closing accounts;  
phony account "statements";  
theft from owners of U.S. Treasury securities held in "bank's name";  
theft of other investments or the income.

**Charity fraud:**

abuse of restricted charitable gifts to litigate against benefactor,  
assets abuse or diversion for private profit of "disqualified person" as "managers",  
grant fraud to "friends" of "managers", usually with kick-backs  
identity theft of charity to steal "standing" in litigation or to abuse tax-exempt status  
fraudulent conversion of undervalued real estate for private profit of "managers"  
fraudulent valuation of stock for the ultimate private profit of "managers"

**Fraudulent conversion of real estate**

undervalued conversion to disqualified alleged charity managers  
undervalued conversion to court employees  
theft of real estate income  
covert disposal of estate property without notice to beneficiaries or creditors  
destruction of real estate while controlled by Public Administrator