Case 8

The news has been rife with accusations that unethical business practices, including improper accounting and inflated profit estimates, have cost employees and stockholders billions of dollars. In addition to losing their jobs, some people have lost entire life savings. Retirement annuities have withered, and college funds for children have been obliterated.

Some of the allegedly ill-gotten corporate gains have gone to a number of worthy educational, cultural, and philanthropic causes. Kenneth Lay, former Chief Executive Officer of the now disgraced Enron, donated hundreds of millions of dollars to nonprofit organizations. The auditing firm Arthur Andersen endowed numerous accounting professorships. The Whitney Museum and the New York Museum of Modern Art received gifts of more than $1 million from executives embroiled in scandal.

Businessmen John and Michael Rigas pledged $2 million to the National Cable Television Center and Museum, and were subsequently honored with a lifetime achievement award and an invitation to sit on the board of directors, respectively. In July 2002, the Rigases were arrested for allegedly stealing billions of dollars from their cable company, Adelphia Communications. Now the museum views the contributions differently. Paul Maxwell, a board member, wonders if they have received stolen goods and may be guilty by extension: “For charities to say it’s okay to take this money just because they are doing good -- I don’t think that’s an adequate answer.”

Some assert that tainted donations should be returned to shareholders and creditors, regardless of the worthiness of the cause that received the donations. In fact, under federal law, gifts of illegal origins are subject to forfeiture. After a hedge-fund manager was convicted of fraud, the Securities and Exchange Commission (SEC) revoked donations to a homeless shelter, a church, and a politician. David Komblau, an SEC attorney, commented: “When it’s someone else’s money, it’s very easy to be generous. The victims did not make the choice about where the funds went. Even if given to a perfectly honorable charity, the money should be returned to its rightful owners.”

Others counter that returning such donations, even if obtained fraudulently, is contrary to the common good. Audrey Alvarado, Executive Director of the National Council of Nonprofit Associations, said it would do more harm than good for the SEC to go after charitable donations unlucky enough to have been gifted with tainted money. Some of the nonprofits, which would be potential targets of such punitive action, “are on the front lines helping those company employees most affected by the corporate scandals” by providing support structures for those experiencing difficult times.