



CLASS ACTION

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EMPLOYEE THEFT Owner Beware

By Elizabeth Neary

Employee theft is a growing phenomenon. In Waukesha County alone, two hundred twenty-one cases of employee theft of more than \$2,500 were prosecuted in the last five years. The numbers of cases prosecuted are only a fraction of those discovered and not reported due to embarrassment, reluctance to pursue criminal action or the favoring of a loss over the negative publicity such a theft might engender against the business. The frequency of employee theft that goes undetected can only be imagined.

Who commits employee theft? Trusted employees with "unlimited access and limited accountability," says Captain David Funkhouser of the Pewaukee Police Department, who has investigated scores of complaints of employee theft. The thief is most often female, works in an accounting or bookkeeper capacity, typically with no prior record or history of any police contact. Age is not a factor. The perpetrator is always a surprise to the employer.

The thieves steal from payroll, from 401K accounts, from petty cash. They manipulate accounts receivable and issue credits to customers who've paid their bill in full, then pocket the excess. Credit cards are a popular and easy source for theft. Any company that deals with cash has to be particularly watchful over those employees who deal with it.

Small companies where it is difficult to segregate duties among limited numbers of employees are susceptible to embezzlement. However, larger companies, where employees are able to disguise their illegal activity among large numbers of persons with access to cash are just as susceptible. No business is immune. The American Bar Association Journal recently reported the plight of a New Orleans law

firm that was forced to shut its doors when it was discovered that the firm's chief financial officer had absconded with \$2 million over four years. Unpaid payroll taxes led to the discovery and the firm's demise.



Why do they do it? The need to feed one's family or other altruistic motive is almost never the reason behind employee theft. "Greed is the number one reason," according to Captain Funkhouser. And greed is usually what gets the perpetrator caught. If you discover a large loss, look back to prior months' and years' transactions. "No one starts out big," says Funkhouser. Thieves test the waters of detection before they boldly extract large sums from the company's coffers.

Some employees express a sense of entitlement when caught. "They owed me," is the excuse given. Others express sincere remorse and confess to alcohol or drug dependence. Those with true addictions are relatively easy to detect. Substance abuse problems often lead to sloppy work and cover-up carelessness.

Gambling does not fall into the category of addiction in Funkhouser's opinion. "It's

inconsistent to say you're addicted and without control and at the same time have the presence of mind to effectively conceal your crime," he says. Gambling usually follows theft, rather than be its catalyst, and thus is really just a subset of the initial greed.

While employee theft can happen to any company, there are steps employers can take to minimize the risk. The employer needs to "think like a thief," says Funkhouser. "If I wanted to steal from the company,

She pulls the lever with her right arm. It's getting late and she's nearly out of cash.

Cherry. She abandoned the push button method an hour ago.

Pulling the lever feels more like she's earning the prize. **Cherry.** She wishes she hadn't re-deposited the jackpot she'd won earlier in the night. The lever slides back into position while the obnoxious casino tones fill the air. The last window revolves with a blur of color until it slows to a single image. **Lemon.**

She pushes herself away from her favorite "lucky" machine. "Oh, well," she thinks as she slips on her coat, "at least it wasn't my money."



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Employee Theft

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what would I do?" Talk to employees and ask them where the company is vulnerable. The honest ones will readily help you identify problems, the dishonest employee will know that you are watching. Stay in touch with your business. If you want to disassociate yourself from the business, you are better off selling it. Lack of contact with the company sends a message that the owner doesn't care.

Like any crime, there must be motive, method and opportunity. Limit the opportunities to steal. Open your own mail. Segregate duties, particularly bookkeeping functions. Never have the check writer balance the checkbook. If you use credit cards, have the statements opened and reviewed by someone other than the user. Don't use cash. Encourage electronic transfers. Someone, perhaps the owner, needs to review checks on a monthly basis to watch for out of the ordinary transactions. Periodic, random audits by the owner of the business decrease the likelihood that an employee will steal from the company. Be aware of employee habits. Someone who refuses to take a vacation may be the person afraid of detection in their absence.

Be sure to complete a background check


on prospective employees before they are hired. A quick check of CCAP (www.wcca.wicourts.gov) might show prior infractions. In a recent Waukesha County case, a background check revealed that the employee was on parole for employee theft.

It is important to develop a relationship with a good law firm. Should employee theft happen to your company, you need to act quickly and know who to call. Call local law enforcement first, preferably before terminating the employment of the suspected thief. Officers will be able to provide instructions on questions to ask immediately so that you will be better able to evaluate the extent of the loss. When confronted, caught employees often cooperate. They should be told that there is always a trail, even in the age of shredders. Be sure to escort the terminated employee from the premises without allowing access to computers and have your network administrator disable user rights to the network. Retrieve all keys and passwords. Personal items can be returned at a later date.

Call your law firm. Quick action by the attorney can prevent assets from being hidden or disposed of. An injunction

against the sale or disposal of assets may be ordered by the court. Bank accounts can be frozen and assets can be liquidated to repay the debt. While the criminal court may impose a requirement of restitution as part of a sentence, that will not occur, if at all, for a significant period of time.

Relatives of the thief may have benefited from the crime and may be appropriate defendants in a civil lawsuit. If the company uses an outside accounting firm that failed to detect the losses, the accounting firm may be liable for damages for professional negligence. Insurance companies should be notified and the process of identifying the loss should be undertaken immediately.

The effects of employee theft are far reaching. Be aware and if a theft is discovered, act quickly to minimize its impact. 

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