



RISK MANAGEMENT INSIGHTS

by W. Brian Ahern, RPLU

Protecting Against Theft From Within

From 2009 to 2010, there was a 17 percent increase in major embezzlement cases, according to a recent analysis conducted and published by insurance company CNA. While the state of the economy played a role, employees who believe their work is not appreciated or compensated appropriately feel entitled to steal from their employer. Law firms are also vulnerable to theft of client trust funds and multiple types of fraud including securities, expense, title, collusion with third parties and over billing.

Theft and fraud can be committed by anyone in a law firm, regardless of stature. In fact, it is usually the long-term, trusted employee who is in the best position to carry out a damaging, illegal scheme.

For law firms to guard against becoming the victim of their employees' greed, the report includes the following suggestions:

Screen Potential Employees Carefully. Watch for Warning Signs.

There are five major motivating factors that cause employees to steal from their employers:

- Financial problems
- Gambling problem/addiction
- Desire to live lavishly
- Substance abuse
- Support of a personal business

In the vast majority of cases, greed or the desire to live a more lavish lifestyle appears to be the key motivating factor—not to alleviate personal financial problems, as you might expect.

Pay Attention to the Business Aspects of Running a Law Firm. Emphasize the Importance of Ethical Behavior.

Conduct periodic training sessions to educate attorneys and staff on the significance of maintaining an ethical workplace.

Reconcile Bank Statements Regularly. Review Accounts Payable/Receivable on a Monthly Basis.

Require Dual Signatures on Checks.

Prohibit the use of signature stamps to endorse checks and the signing of blank checks.

Rotate Job Duties.

The vast majority of major embezzlers in law firms act alone. Law firms should be especially wary of an employee who handles multiple duties; who is the only employee who knows certain job duties, computer software systems or financial systems; and who is “too busy” to respond to reasonable requests for information.

Separate Job Functions Related to Finances and Accounting.

The employee who writes checks should not be responsible for reconciling bank statements. Similarly, the person who issues payroll checks should not maintain the personnel database.

Enforce a Mandatory Vacation Policy.

Firms often uncover financial improprieties when a wrongdoer is away from the office.

Conduct Surprise Independent Inspections of Your Books.

Protect Against Fraud by Law Partners or by Managers Overriding Internal Controls.

Perhaps the most difficult type of fraudulent conduct to detect is the illicit scheme committed by law firm partners or managers. Law firms should institute a level of supervision over these high-ranking firm members such as committees with disciplinary authority.

In the unfortunate event a fraud or theft is discovered at your law firm, the report suggests you consult with an outside attorney specializing in employment, criminal or securities law, as applicable, prior to taking action. Insurance carriers, police and possibly regulatory authorities may need to be notified, as should potentially affected clients or third parties. Insurance coverage applicable to theft and fraud losses and third party claims varies widely depending on the facts and circumstances -consult with your firm's insurance broker regarding applicable coverage and reporting obligations.

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