Employee Theft – Deterring, Detecting, & What to Do if Your Company Becomes a Victim

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The Lowdown on Employee Theft

“Embezzlement”

• Usually one person acting on their own
• Most often a simple method of theft
• Usually occurs over several months, or longer
• It is always a higher $ amount than the Embezzler admits to
• The best chance for recovery of funds is within the first few days after discovery
A Crime of Dishonesty - Can it be Prevented?

• Hiring Safeguards
  - Resume Verification
  - Past employment verification
  - Criminal and civil background check
  - Drug screening
Protecting the Business

• Employee “Hotline” to report suspected fraud/theft
  - Appropriate follow-up on all leads

• Insurance coverage
Protecting the Business

- Investigate abnormal financial activity/trends
The Most Common Forms of Embezzlement

- Payment to fake vendors
- Misappropriation of petty cash
- Payroll fraud
- Credit card payments
Examples of & Detecting “Vendor” Embezzlement

• Verify vendors
• Yearly audit/Reconciliation of amounts paid to vendors
Examples of & Detecting Payroll Fraud

- Periodic payroll review
- Former employees
- “Ghost” employees
Examples of & Detecting Credit Card Payment Fraud

- Simple and clear reimbursement/payment policy
- Timely review of questionable charges
Examples of & Detecting Misappropriation of Petty Cash

• Limit petty cash amounts and signors to authorize petty cash
• Segregation of duties
Red Flags of Employee Behavior

- Unwillingness to share duties
- Refusal to take vacations
Red Flags of Employee Behavior

- Extreme financial difficulty
- Severe family problems
- Addiction
Red Flags of Employee Behavior

- Employee living beyond their means
Embezzlement

√ Prevention
√ Detection
_ Addressing the situation
What to Do if Your Company Becomes a Victim

- Conduct an initial internal investigation *
- Preserve evidence
  - Paper records
  - Computer records
  - Forensic expert

* Consult Attorney, Accountant, PI
Investigation

• Identify possible internal sources of restitution (Employment Lawyer)

• Identify outside sources of restitution

• Interview suspected embezzler
  - 2 people at interview with Suspect
Investigation

- Notify Insurance Carrier
  - Recoup Losses
  - Cover Costs

- Contact Law Enforcement
Law Enforcement

- Police/Sheriff - Local
- FBI - Federal
- Package documentation of theft and contact information of possible witnesses
Criminal Charges

- Criminal prosecution timeline/speedy trial
- Incarceration vs. Restitution
Internal & External Communication

• If you choose to provide information, it cannot be untruthful.

• External spokesperson
Closing Thoughts

- Put your company in a position to limit its risk of embezzlement
  - Prevention
  - Pay attention to warning signs & investigate
  - Immediate action if embezzlement is discovered
Employee Theft
The Employment Law Perspective
The Investigation

• Polygraph???
  – Only if “reasonable suspicion” and employee had “access” to the $$$
  – Very narrow - don’t do it

• Taking Statements
  – Written
  – Recorded

• Defamation Concerns
Employee Treatment Pending the Investigation

• Paid vs. Unpaid Leave of Absence (Suspension)
  – *Exempt Employees* – must pay unless out of work for a full workweek (even 1 hour counts)
  • Unless pursuant to written policy permitting unpaid suspension for violation of work rule
  – *Non-Exempt* – can be unpaid
    – PTO?? – not really fit
Self-Help Deductions

• Final Paycheck – Wages/Salary
  – *Exempt Employees* → yes ... but how sure are you?
  – *Non-Exempt* → yes, but consider minimum wage ... conviction?
  – State Law?
    • Some require written policy, notice of particular deduction, or signed authorization
    • Some prohibit all together
Self-Help Deductions

• Bonuses, Commissions
  – What does the contract/policy say?
  – “Must be here to get paid”
  – “Forfeit upon termination for cause”

• Vacation/Sick/PTO?
  – What does the contract/policy say?
  – “Can’t take it with you and no cash value”
  – “Forfeit upon termination” ... “for cause”
Self-Help Deductions

• Stock, Options?
  – What does the contract/policy say?

• Pension, 401(k), Retirement?
  – Cannot touch; have to pay to the employee
  – But can work with Prosecutor if employee consents
What Can You Do Now?

• Review Your:
  – Contracts – bonuses, commissions, stock, options
  – Policies and Procedures
    • Cash Shortages
    • Return of Property (big ticket items)
    • Discipline - suspension

• Written Authorizations for Deductions
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