

# Dealing with Employee Theft

Unfortunately, a common issue many businesses have to address at some point in their life cycle is the issue of employee embezzlement. Employee embezzlement can take many forms, but there is usually a common set of facts that lead to the first employee embezzlement situation faced by a business. In many instances, increased due diligence and oversight can prevent a vast majority of employee embezzlement issues.



## How it starts

Many employee embezzlement scenarios begin with an employer who has ceded much if not all of his or her business's bookkeeping work to a single, trusted employee. This is usually the result of the growth and success of a business that increases the time commitments of an employer or executive thereof such that he or she simply cannot handle day-to-day bookkeeping activities. Unfortunately, this increased employee autonomy and decreased employer oversight can provide the opportunity for employee embezzlement to take place.

## What form(s) does it take?

Employee embezzlement can take many forms. It can involve the payment of impermissible personal expenditures by the employer without the employer's authorization or knowledge, it can involve the diversion of

employer funds to the employee or it can be as simple as stealing cash from deposits. In most instances, it is a two-step process. Not only is money taken from the employer, but the employer's bank deposits or balance sheet are adjusted to hide the impermissible activity. In most instances, significant employee embezzlement is undertaken by employees who not only have access to money, but who have the ability to hide the theft in the employer's books.

## Red flags

There are a number of red flags that should arouse an employer's suspicions regarding possible employee embezzlement. First, has the employer experienced issues with mail delivery or bills or invoices being directed to an employee's residence rather than the principal business office? It should never be permissible for any financial information to be sent to an employee's residence. Second, has the employer unexpectedly received a notice from the Internal Revenue Service or applicable state Department of Revenue regarding the non-payment of taxes that the employer believed were paid? Third, has the employer noticed a decrease in cash deposits or any discrepancies with deposits? Finally, has the employer had difficulty paying its bills even though business has appeared to be good and the employer has been generating revenue? While not conclusive, the presence of any of these factors may warrant further investigation by an employer as to the underlying cause of any of these factors. In many instances, employee embezzlement is hidden from the employer by diverting deposits and other business funds while not paying taxes or other bills and hiding notice of said non-payment issues from the employer.

## Prevention

The first step in preventing employee embezzlement is to undertake a certain amount of due diligence prior to hiring an employee who is going to have access to business financial resources, including deposit accounts and bookkeeping information. Factors that an employer should evaluate include the employee's employment history and whether the employee has previously had personal financial issues such as bankruptcy, foreclosure or significant judgments or liens. It is perfectly acceptable to request permission to conduct a criminal background check for such employment hires.

A second and necessary step is increased oversight over the employer's financial

affairs by someone who is not handling the bookkeeping activities. In many instances, if possible, the same person should not be handling the receipt of deposit funds and the bookkeeping. Many instances of employee embezzlement are easily found upon a review of the employer's books.

Third, mail should never be directed to an employee's personal residence. This prevents any amount of employer oversight. While it might seem logical for a part-time employee charged with his or her employer's bookkeeping to have the mail sent to a non-business address, this can lead to a multitude of problems beside embezzlement issues, especially if the employment situation ends in a less than amicable manner.

Finally, employers should check with their commercial insurance carriers to determine whether they have coverage for employee embezzlement or theft issues. If an employer does not have such coverage, he or she may want to strongly consider it. In many instances, although there might be potential criminal penalties and the ability to sue an employee for a loss, the chances of recovery in many of these situations are not great. Insurance coverage may help mitigate a significant loss.

## ABOUT THE AUTHOR



Nathan M. Brandenburg is an attorney with **Skjold - Barthel, P.A.**, where he represents numerous small and mid-sized companies as an external general counsel. Nate's practice also

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