

Employee Fraud: More Today Than Yesterday?

If So, Why?

The State of Employee Fraud: Where are we today?

Reports of alleged employee theft and embezzlement appear daily in today's media. A simple on-line search using the key word "embezzlement" results in computer screenfuls of news articles with recent posts, often posted that same day. When coupled with the statistic that only one out of nine cases of theft or embezzlement makes it into the public eye, the amount of fraud occurring is staggering.

Based on my experience, the frequency of embezzlement grew during the last 10 years, with the most significant change in frequency transpiring in the last couple of years... and I do not see any signs that this trend will reverse.

In 2013 alone, my firm investigated more employee fraud cases than any other year previous. In fact, we turned away new cases at two points that year, for we had reached capacity, and found ourselves forced to refer the overflow to trusted peers.

Fraud, particularly in the form of employee theft and embezzlement, exists today as a very real issue for every employer, large or small. Fraud now occupies a place alongside payroll, benefits, human resources, employee training, insurance, marketing, and any other facet of a business's operations and considerations. It is no longer a matter of "if" fraud could occur within a company or organization, but rather "when" and "how."

Today, companies and organizations of all sizes must invest a considerable amount of money and effort to assess the risk of employee fraud, working toward the goal of preventing schemes before they hatch, and detecting those that DO as quickly as possible. Yet, despite the level of heightened attention paid to this challenge, schemes continue to occur and evolve, and at a most alarming rate.

The Underlying Question...Why?

Why does employee fraud and embezzlement occur so frequently today?

Experts have written many articles highlighting a seemingly logical relationship between the economy during a depressed period and increased incidences of employee theft.

Certainly an inverse relationship exists between the economy and other types of crime, such as robbery and burglary. Relating the inverse relationship to employee fraud, logic would suggest that as incomes shrink and jobs grow scarce, otherwise-honest individuals turn to stealing (or should I say "borrowing"?) to make ends meet during the decline.

Based solely on my experience investigating between 25 and 30 cases of employee theft between early 2009 and late 2012, the individual incentive or motive behind each case certainly did *not* support the “recession-economy” theory.

In my home state of Connecticut, investigators often identify a second “culprit” as responsible for the rise in employee embezzlement: gambling.

Media reports frequently cite gambling as an addiction that has led otherwise-honest people to steal assets from others, including their employers.

The first casino opened in Connecticut somewhere around the mid-1980s; another soon followed, and many blame gambling at these casinos for increases in many crimes, including embezzlement. Many such incidences have proven the case, likely in other gaming environments such as Las Vegas, Atlantic City, and other locales.

However, my firm has found such a scenario the exception to the norm.

Converging Factors...Brewing The Perfect Storm

Having investigated upward of 250 cases of employee theft or embezzlement over the past 26 years, I believe certain trends have recently emerged, enhancing the current climate for fraud.

While I cannot attribute any single trend or factor as the sole culprit responsible for the increase in fraud today, I believe all the trends and factors flowing in confluence in today’s society have created “the perfect storm” for theft and embezzlement.

I base each trend and factor I describe in this essay on my first-hand experience in investigating and resolving cases of theft and embezzlement. The cases occurred mainly in Connecticut, and to a limited degree, within the surrounding states. However, in speaking with colleagues around the country, I suspect things do not differ much elsewhere.

“E” Stands for “Entitlement”

We live in a period of heightened personalized entitlement.

More and more individuals simply look out for themselves, with mantras such as “What’s in it for me?” and the rationalization “I am due mine” supporting their actions.

We see this in the actions of individuals throughout our neighborhoods and communities, how they behave, how they interact with others, even in how they behave behind the wheel.

Don’t take my word for it; simply watch the actions of others within your communities. Observe how customers in restaurants and stores treat the workers, or other patrons waiting in line. Observe how others drive – their blatant disregard for traffic signals,

parking restrictions, and other measures designed to keep everyone safe. Watch the behavior of “umbrella parents” whose children do not get what mommy or daddy believes to be good positions or sufficient playtime. I contend the “spirit of entitlement” surrounds us, and it grows worse each and every day.

The number one culprit for all the theft and embezzlement cases I have investigated in the last 10 years remains the “Big E” – *Entitlement* – of one flavor or another.

In one recent case, a controller for a local distributor embezzled \$30,000 through a gift-card scheme. He would purchase store gift cards for his “inventory” of cards available for employees, awarded at times for anniversaries and other milestones, but instead use the gift cards as currency to pay for his personal household expenses. An avid fisherman, he used his *true* earnings toward the restoration of a beach house. He earned six figures, and while he admitted he had handled some things inappropriately (leading to his repaying the company \$40,000), he still claimed he never stole a dime from his employer.

A second recent example involved a woman working for a small non-profit membership group. The woman served as the treasurer, and held exclusive access to the bookkeeping and finances. Over time, other board members repeatedly asked for access to the bank statements, and finally, after great delay, she admitted she had embezzled nearly all of the group’s funds. She simply withdrew funds on a regular basis for personal use, and as a condition of resolving her arrest, she managed to obtain a loan to restore the organization’s funds.

But the question remains – if she needed the funds all along and she had the ability to obtain a loan, then why didn’t she simply get the loan in the first place? She offered no explanation why she needed to use the group’s funds. She also thought she would never get caught, something we hear in most cases.

Devaluation of – and Disregard for – One’s Name and Reputation

Following Entitlement in a close second-place, and directly related to the rationalization of the Entitlement theme of “doing whatever it takes to get ahead” or “getting mine,” I firmly believe many people no longer revere the value or personal worth of one’s name and reputation. Notoriety has supplanted shame.

This trend or factor relates directly to ethical decision-making. In many ethics discussions, a suggested barometer to use prior to deciding whether to take a certain action is the notion of seeing your action reported in that evening’s newscast or the next morning’s newspaper.

Yet my experience demonstrates an increasing number of people today are willing to do things they know may not appear proper, or worse, to do things they know in advance are inappropriate, or, in many cases, illegal. The primary motivation for their actions usually involves money, and these individuals apparently hold little regard for what

others think about them when their actions become public. Embarrassment and pride simply no longer seem to matter to far too many people...

Consider the highly public misadventures of Toronto Mayor Rob Ford. Blatant lying to the public and investigators, outrageous outbursts and inappropriate behavior, all things that historically should lead one to feel shame and remorse, yet Mayor Ford continues to go to work each day on a “business as usual” basis. He regularly appears on late-night talk shows, and regards his continuing bizarre behavior as just another day in the life. The Mayor’s continued misdeeds during his perseverance to maintain his position as Toronto’s leader constitute a joke (a bad one, at that) by most standards, except his own, and he perceives himself not as a buffoon but as a celebrity figure.

We all know of numerous instances of the individuals holding significant public positions who have crossed the line and committed crimes, yet feel no reason to step down from their position even after their actions and crimes have become public knowledge.

In Connecticut, police recently arrested a judge for drunk driving. The judge fought with the police, and uttered racial slurs in addressing the arresting officers. Video cameras captured everything and made the exchange public, yet she remains a judge. The irony? The person committing these actions will continue in the role of someone who will decide the fate of others committing similar actions. I feel at times I am in the declining minority of people who see this as wrong, as an inherent conflict of interest for this individual to continue to serve on the bench.

A major scandal that hit Connecticut last year related to state employees who defrauded state programs designed to provide relief to storm victims. Nearly 100 identified state employees filed fraudulent claim applications with the State of Connecticut, the very same State that funds their paychecks each week, seeking the financial relief designated for *true* storm victims. In the end, not one individual was prosecuted, a few lost his or her job, and the State was blocked from releasing the names of those involved. Life moves on for those state employees, no harm, no foul, but for anyone else who files a false claim, prosecution remains a certainty.

Revisiting the earlier case of the controller who stole through gift cards, a recent press release announced the exciting news of a newly created position of chief financial officer within a large company in Connecticut. Guess who the article highlighted as the individual named to the position? The “gift card controller” who we recently investigated, and who paid \$40,000 in restitution for his actions. I trust he is proud of his new position as CFO, and of the company’s excitement over hiring him...

Where Did The “Shock Factor” Go?

News of an individual accused of stealing large sums from an employer, from family, or from any program or government agency occurs pretty much on a daily basis, and the amounts involved just keep climbing...

Not long ago, the accusation of someone stealing \$100,000 made big news, as we perceived \$100,000 as *a lot* of money. Recent cases involving much larger sums, such as Bernie Madoff's \$50 million Ponzi scheme, and Dixon, Illinois comptroller Rita Crundell's \$35-to-\$50-million embezzlement have redefined what constitutes "a lot" of money. The suspects set the bar higher and higher with each case, and the new norm probably sits at a million dollars.

The "shock and awe" of someone accused of a crime seems to have diminished, nearly to extinction. Why?

Because we hear and read about it *every day*. No question as a society we have grown desensitized to these daily news stories, to the point where very little surprises any one of us anymore. Scandals continue to rock every level of government, our education and healthcare systems, faiths and religions, every major league sports program, celebrities, performing artists, and virtually everything else held in any value.

I also think more people are aware of the frequency of financial crime, and how too many people live beyond their means, and thus we are not surprised today when an individual's crime finally catches up with him or her. For people such as me, that final piece always fits neatly into the puzzle when the individual is caught and the crime publicized. We had often wondered how the individual could have legitimately lived such a lifestyle – and then we enjoy the "ah- ha!" moment.

A Greater Level of Acceptance By Society

Directly related to the loss of shock factor, I believe greater acceptance exists within our society today more than ever in the past for the inappropriate (and at times illegal) actions of others, likely due in large part to the frequency of occurrence, leading to desensitization. As someone told me recently with a shrug, "These things happen all the time today."

Often when a story breaks about someone stealing funds, the question anyone asks is "How much did they take?" My thought process may be old school, but stealing is *stealing*, and the amount stolen, irrelevant. Theft is *theft*.

I understand the concept of cost/benefit, and putting good money after bad, but stealing anything is wrong. I also recognize within today's society, many things historically black and white have become shades of gray...

Many individuals today operate under a system of "situational ethics" rather than employing one established set of rules to guide all of their actions in every situation – "Right versus wrong," if you will.

Taking office supplies home for children to use as school supplies likely constitutes stealing in most people's eyes, but presumably no one will get excited about it because 1) the amount or value involved is likely small in nature, and not "millions," and 2) it happens everywhere, all the time.

Once again, I may be in the growing minority of individuals who believe “stealing is stealing,” regardless of the amount.

A case I use to illustrate society’s acceptance or “tolerance” issue involves a pediatrician here in Connecticut. Our state has experienced a spike in child pornography cases, with new ones appearing in the media almost weekly.

One town has seen several individuals arrested for possessing and trafficking child pornography, including police officers. A year or more ago, officers arrested a local well-known pediatrician for possession of child pornography. His license was suspended pending the investigation, and many news stories appeared.

Customary to the television industry, stations sent out reporters to speak with families with children in the care of the pediatrician’s office, as well as other members of the nearby communities, to collect and report their reactions to the story. The individuals I remember most from the resultant news coverage? Those who asked the reporter how many pictures the accused possessed.

Those individuals’ reactions displayed neither outrage nor disgust, as one would expect after learning a pediatrician collected child pornography, but rather appeared efforts to rationalize, in their minds, how bad his behavior could *be*. In my mind, *one* picture would establish the guilt threshold for a pediatrician – or anyone – but clearly that is not the case.

Limited Resources: A System Overwhelmed (at every level)

Given today’s economic climate, every local, state, and federal agency tasked with preventing, investigating, and prosecuting fraud and financial crime is stretched thin, charged with doing more today than ever with fewer resources and personnel, and less funding and time.

It is unrealistic to think every case and every amount will be fully investigated, prosecuted and resolved, thus resulting in prison sentences for those responsible. The civil and criminal courts are backlogged with cases, resulting in significant timing issues between when cases are brought and when they are adjudicated, and even limiting the number of cases accepted for investigation and prosecution.

The overcrowded correction systems now burst at their proverbial seams, and with space reserved for the more violent criminals more so than the non-violent financial thieves. Alternative sanctions to “prison” in the forms of fines, restitution, probation, house arrest, and community service appear in most embezzlement plea arrangements, especially at the state level. In Connecticut, my experience shows it nearly impossible to get actual prison time for an individual accused and convicted of employee theft or embezzlement.

Another case illustrates the reality of consequences relating to embezzlement.

The volunteer president of a local non-profit (let's call her "Jane") embezzled more than \$400,000, all through cash withdrawals in her name from the agency's bank accounts. Each cash withdrawal slip contained her name, and none of the identified funds was either deposited to other agency accounts, or used for agency purposes. The woman pleaded guilty to larceny, a felony, and eventually *did* receive a sentence of eight and one-half years in prison – but not necessarily for her actions in the "theft." Regardless, in 26 years, I have rarely seen a sentence in any case involving potential jail time where the individual actually went to "jail". Yet Jane *did* go to jail... and here's why...

I learned the judge became upset with Jane, who, looking to delay her consequences, failed to appear at her sentencing. The judge ordered that she appear on a second date, and on that day Jane again did not show. The judge grew angrier, and ordered Jane's attorney to leave court, retrieve Jane, and bring her directly to court. The judge held the court open pending their return.

The attorney returned without Jane, and in response, the judge issued a bench warrant for her arrest. On the third scheduled sentencing, Jane appeared. The judge heard no remorse from Jane, and also learned she had made a cash payment toward her bond of \$18,000, which provided her 48 hours of freedom. Jane never admitted to the thefts, and made no restitution to the agency. For these reasons, the judge sentenced Jane to prison.

Recently I learned through an attorney that the judge initially planned on giving Jane probation along with restitution, but for her actions that made him angry, so only then did he sentence her to actually serve prison time.

Prosecutors' Disinterest In Financial Crimes (versus other types of crimes)

More and more prosecutors openly admit (as do members of law enforcement) that financial crimes are more complicated and "involved" than other types of crime, and thus more time consuming. These same individuals readily admit they lack the financial sophistication to fully understand all the issues, and therefore shy away from these cases. And so, financial crimes all too often take a backseat (if any seat) to murders, sexual assaults, robberies, burglaries, and other crimes.

The same holds true in civil courts. While some judges and attorneys are indeed financially savvy, too many others do not understand and follow financial transactions, tax laws, and other related matters, which can lead to a case transferal to a different judge, or a decision rendered based upon an incomplete comprehension of the composition, complexity, or flow of transactions involved.

Based on my experience, if you possess a solid financial background and sit through enough hearings and trials, you will hear information presented as "fact" that simply is wrong. The system at times does not have the level of financial sophistication to recognize when this happens.

More and more agencies and offices *are* adding financial crimes experts, but through promotions and attrition, often the individuals move on or cannot accept a new case, resulting in either a backseat again, or a declination to prosecute.

Loss of Perceived Consequences

Limited resources, dearth of financial expertise, and a lack of interest to invest resources are not novel causal theories I alone possess. Others understand that obstacles to justice exist. But I believe another major factor contributes to the rise of employee fraud...

Repeated, highly publicized examples of unpunished or “wrist-slapped” fraud, such as state employees defrauding the state and not getting fired, let alone prosecuted, telegraph a message to would-be embezzlers and thieves that the likelihood of prosecution is low, and the likelihood of going to jail even lower. I contend this *de facto* lack of punishment has led to the erosion of perceived (and actual) consequences.

The threat of receiving a prison sentence has historically served as the greatest perceived consequence to crime, second only to capital punishment, which likely is not applicable to financial crimes, at least not in the United States. Financial crimes committed and prosecuted at the federal level continue to include prison time, albeit less time than in the past depending on the facts and circumstances of each case, due in large part to the federal sentencing guidelines. However, prison time *has* become far less common at the state level.

I believe this has made a tremendous impact upon the thought process of the “would-be” embezzler, contemplating his or her first theft. “Low chance I will get caught... I am entitled to more pay... I deserve a better lifestyle... I might lose my job... I could potentially get arrested (but there’s only one chance in nine of *that*), I might have to make restitution, but I really doubt I’ll ever actually end up in jail... hmmm... Why *not*?”

In the theft and embezzlement cases I have investigated, I know this line of thinking played out when many otherwise and heretofore honest individuals had crossed the line to start stealing. Others, of course, never thought twice, never engaged in any “what if” thought process, and simply started stealing, without any regard to consequence.

Fraud Frequency: Growing, Growing, Gone (Off The Charts)?

Yes, fraud is my business, and business is good.

Fraud continues to grow, which for me personally I suppose is good for business, as my forensic accounting firm exists solely to educate about, prevent, detect, and investigate fraud, continuing to ensure the firm’s existence, and, by extension, provide job security for my employees.

Yet I find these societal changes most troubling. My biggest concern remains how this “perfect storm” of these trends and factors I have described can be reversed.

For such a reversal to begin, agencies, organizations, programs, companies, employers, courts, and others must each draw a line, a dark, clearly defined line, accepted by society and the individuals our society comprises, as a line never to be crossed and for such a crossing never to meet tolerance.

Sadly, society seems headed in the opposite direction, taking existing black lines and diluting them into wispy washes of gray space, defined through rationalization based upon frequency, desensitization, situational facts, and other issues. What we once as a group considered “right and wrong” is rapidly becoming “right or wrong, *sometimes...*” with back doors, trap doors, and escape hatches to further erode once-strong standards.

I know through my conversations and interactions with fellow members of what I call “the shrinking segment” of the population that some of us will continue to hold out hope, and hold the line, teaching our next generations right from wrong. However, I fear society at large, with the energy and momentum of a giant machine, has turned in the opposite direction...

The *individual* – you and I – *must* make the difference. An employer, a board member, a member of management, an individual can choose to hold the line, and establish clear standards for right versus wrong, acceptable versus unacceptable, and ensure consequences occur if the line is crossed, sending a message that inappropriate actions will not be tolerated nor rationalized.

Each of us, regardless of our situation, can create an environment where fraud will not be tolerated, with practical systems of internal controls based on each individual context to prevent and detect instances of fraud, theft, or embezzlement.

When we detect fraud or theft, we must react swiftly and decisively, with zero tolerance. We must report the theft to every applicable agency, with the hope that one will accept the case, resulting in due consequence. At a minimum, such vigilance will help reduce the frequency of situations such as the parasitic “gift card controller” described earlier simply moving on to his next unwitting host, where, by the way, he remains today.

Finally, a word of advice: secure adequate insurance. I do not see employee theft and embezzlement decreasing, but rather *increasing*, along with the amounts of funds involved. Ensure coverage exists to enable the filing of a claim to recover the loss, and assess the coverage amount necessary to ensure the recovery of sufficient funds in the event of a significant embezzlement. The adequacy of employee dishonesty coverage, sadly, should appear on the agenda of every meeting with your insurance company.

One final piece of advice? *Never* let the premiums lapse on that coverage.