

Employee Fraud – Don't Rule It Out

by John Allen, CA

Recently, a number of law offices have experienced employee thefts of both trust and general funds. The firms varied greatly in size, but in all cases, the employees (now former employees) took advantage of the employer's trust. In one case, the guilty party had been an exemplary employee for more than 10 years.

In many cases, the time and cost involved in determining the extent of the fraud and corrective action required was significantly greater than the fraud itself.

Control procedures can be put in place to assist in preventing fraud or to facilitate early detection. Since controls depend largely on the proper segregation of duties between employees, available controls vary greatly by the size of the firm. The larger the firm, the greater the possibilities of dividing duties to ensure one person does not have complete control of an entire transaction.

Although thefts can take place in a multitude of ways, the main targets are:

Receipts

Cash receipts and/or unanticipated or unique receipts are particularly vulnerable (ie. refunds/overpayments, etc.).

Disbursements

Thefts usually involve forged signatures or having a member sign a cheque in a hurry (ie. no time to review supporting documents). Another popular routine is for the employee to request a lawyer not responsible for the file to sign the cheque because the responsible lawyer is "not available."

One of the best ways to prevent and/or detect fraud early is to ensure the bank reconciliation process is properly controlled. To that end, please refer to the Law Society website *Publications/Law Office Management/Control Procedures - Bank Reconciliations, Receipts and Disbursements* for some control tips relating to the areas of receipts, disbursements and bank reconciliations.

Payroll

This includes payments such as expense claims.

In addition, members would be well advised to:

1. Perform employment history checks, and for sensitive areas, criminal background checks before hiring employees. Also, "google" the prospective employee or perform other computer searches.

2. Always check references and contact former employers before hiring new employees. Pay particular attention to “gaps” in employment history and verify those gaps through discussions with former employers. Wage garnishments can be a “red flag” for possible employee fraud.
3. Appropriately segregate duties assigned to employees and then monitor tasks assigned to key employees.
4. Implement a system whereby two members must sign each cheque. I would also recommend that before the cheque is submitted for signatures, that the chief accounting person “initial” each cheque as confirmation that the payment is “properly supported.”
5. Press criminal charges against any employee who has defrauded your firm. Do not just “settle” and let the employee “walk.” If the person is convicted, then other members can be advised and this factor taken into account in the hiring process by other firms.
6. Require approval of at least one member (preferably two) to write-off an account. In addition, all accounts written-off during a specific time period (ie. monthly or yearly) should be reviewed and approved in total to ensure only member approved write-offs have been entered into the accounting system.
7. *Never, ever pre-sign cheques!* Pre-signing trust cheques is against Law Society Rules, but never pre-sign any cheque. This opportunity may be too tempting for an employee who is “flirting” with performing a fraud.
8. Insist on examining original source documents (not copies) when signing cheques. Rarely accept copies as substitutes. This helps prevent duplicate payments where the employee converts the payment to personal benefit in some way.
9. Be aware of fraud perpetuated by outsiders as well as insiders. I expect this to become more prevalent in the future, given the number and quality of scams we have seen recently. Computers and peripheral equipment available today allow fraudsters to produce high quality fake documents, including cheques which could be cashed through your account(s). Therefore, maintain control over bank account numbers, blank cheque stock (these should always be under lock and key with access limited to only those persons requiring access), bank statements and cashed cheques.

If you have any questions or would like to discuss any of the above points in more detail, please contact John Allen, CA at the Law Society office at 569-8242.