

Embezzlement Response Guide

Embezzlement is the act of dishonestly appropriating cash, checks or goods by the person to whom they have been entrusted.

Embezzlement is a silent crime affecting individuals and businesses. It can be committed by treasurers of sports teams, a small business accountant, or a group of professionals in a larger firm. The Washington County Sheriff's Office (WCSO) and the Washington County District Attorney's Office (WCDA) have developed the majority of the content of this guide to help victims of embezzlement work with investigators to prepare the most successful case possible. The WCSO and WCDA information has been supplemented by Cost Advisors, Inc. As you consider each suggestion, please remember that every case is different and all the steps may not apply to your situation.

Embezzlement Warning Signs

The following is a list of Embezzlement Warning Signs. Reviewing this list may help you recognize or recall events that are potentially important.

Records

- Records are disorganized or missing.
- There are unexplained changes in your accounting records
- There is an unusual drop in company profits or available cash.
- There are unusually large or numerous credits to customers.
- Bank reconciliations are late.
- Bank deposits are delayed (i.e. deposits in transit too high)
- There are too many increases in past due accounts receivable.
- Accounts receivable or payable do not reconcile to their respective subledgers (detail listings).
- Check amounts are altered.
- Duplicate payments are made.
- Too many payments are being made to individuals with the same name or address.
- Vendors' addresses are the same as an employee's address.

Behaviors

- Weak controls, separation of duties or oversight (i.e. one person does too much).
- An employee works late, on the weekends and refuses to take vacations.
- An employee's standard of living improves to a degree that is inexplicable based on his/her salary.
- An employee has a gambling habit.
- Customers complain about having already paid a bill.
- The petty cash is disappearing or frequently replenished.

Actions to Take

1. Contact an employment attorney before confronting the suspect.

Do not accuse the suspect publically or terminate the employee without evidence. Depending upon the circumstances, this could subject your company to slander or a wrongful termination lawsuit.

There are two types of cases related to embezzlement: the criminal case (where the thief is charged with committing a crime) and the civil case (where the victim can file a lawsuit against the thief to try to recover the stolen money and damages). The District Attorney works with Sheriff's detectives to prepare the criminal case. Alternatively you may hire a Certified Fraud Examiner to gather evidence that a crime has occurred and present that evidence to the detectives for follow-up. Your private attorney normally hires a Certified Fraud Examiner who works with you on the civil case.

Always contact your employment attorney immediately upon discovering a loss. If you do not have an attorney, your accountant or banker may be able to refer you to a reputable attorney or you can contact the Oregon State Bar Lawyer Referral Service at 1-800-432-7636. Alternatively, Certified Fraud Examiners often can recommend attorneys that they have worked with previously. Legal counsel and a Certified Fraud Examiner will help you document proof of embezzlement before confronting or terminating the suspect.

A victim has two time deadlines when embezzlement has occurred:

- A civil suit allows the victim to sue a person to recover stolen money and damages. The time limit for filing a civil lawsuit is normally two years from the time of discovery. However, your attorney can tell you the limit that applies in your situation. Be sure to talk to your attorney if you believe the embezzlement has been going on for more than a year.
- In felony criminal cases, the limit is normally three years from the time the loss is discovered. The District Attorney and detectives working the case will know for sure.

2. Contact your banker to remove the suspect as a signatory on all accounts.

Make contact with your banker or financial representative immediately and ensure the employee is removed as a signatory from all accounts. Obtain documentation of this change and note any bank account changes made by the suspect.

Depending on the type of fraud, your bank may be able to obtain video surveillance footage that would provide additional evidence against the suspect; for instance, videos of ATM deposits. Generally, the victim can obtain this information more readily than detectives.

3. Help investigators collect evidence.

Sheriff's Office investigators will need very specific information to successfully investigate and prosecute the crime of embezzlement. The following list will guide you in gathering this information. If you need guidance at any time, please contact the detective assigned to your case. A Certified Fraud Examiner can also help in gathering the information below if a detective has not been assigned.

3a. Gather information about all the parties involved

Provide the following identifying information for victims, witnesses, and suspects (if you have it):

- Name (include legal name, nicknames, and any aliases)
- Addresses (work, home, and emergency contacts if possible)
- Phone numbers (work, home, cell, pager)
- Date of birth
- Social Security number
- Driver's License Number and the state of issuance
- Email address
- Is this person a victim, witness, or suspect?
- For employees, list their job title and describe the duties they perform
- For non-employees, describe their relationship to the case

3b. Copy the suspect's personnel file

Provide a full copy of each suspect's personnel file. Include their original employment application, automatic/direct deposit forms, insurance forms, etc. Many times the personnel file (if not removed by the suspect) is extremely useful in locating suspects if they leave the area. It may also help investigators identify banking and financial information that enables them to trace missing monies.

3c. Gather helpful evidence of the crime

Tip: For legal reasons, the evidence below requires special handling so that it is not tainted or corrupted and so that a 'chain of custody' is maintained. For that reason, you may want to hire a Certified Fraud Examiner to secure evidence.

1. **Physical Evidence** – A description of all physical evidence retrieved including checks, invoices, contracts, e-mails, videos, etc. (anything other than verbal statements). Make sure the originals are stored in a secure area. The originals are the best evidence and must be submitted for prosecution in court.
2. **Computer Evidence** – The victim or his/her attorney may need to contact a computer forensic examiner to make an exact copy of the hard drive, referred to as "mirroring". This may become important in any future civil and/or criminal legal proceedings. Also, the WCSO is a member of the Regional Computer Forensic Laboratory (RCFL) and has the ability to mirror the business' hard drives for the criminal proceedings. This should be discussed with the detective

assigned to your case. A RCFL forensic examiner may be able to come to your business to do this. However that copy would not be available for civil purposes until after the criminal proceedings.

3. ***Witnesses*** – A list of all pertinent co-workers or personal relationships you are aware of who may be called to testify in court. Please provide as much information you have for them such as phone numbers and addresses.

4. ***Chronological Narrative*** – This is the most important component of the package and should include background information on the business. The narrative will include what initially caused you or another employee to suspect wrongdoing, along with any statements or confession the suspect may have made. Please provide details including date, time and circumstances of statements.

Guarding Against Embezzlement

It is extremely important in business to conduct background investigations on your employees, especially those who have access to your funds, customers' personal information and customer's funds. Be sure to have the applicant sign a waiver before performing these checks. There are numerous companies that will perform a background investigation, including civil and criminal record checks, for a reasonable fee. A small investment at the beginning of a hire does not guarantee success but may improve your chances of avoiding embezzlement in the future.

If your company is audited annually, fraud could be undetected nevertheless. Auditors look for material misstatements in the financial statements. They do not necessarily look for fraud unless that would be material to the organization's financial statements.

Communicate to employees that dishonesty is not tolerated. Depending on the size of your business it may be beneficial to have some employee training about fraud risk and assessment.

This document provided courtesy of Cost Advisors, Inc.

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Additional Resources

Oregon Association of Certified Fraud Examiners: www.Oregon-acfe.org
Oregon State Bar Lawyer Referral Service: www.osbar.org/public/ris/ris.html
Oregon Society of Certified Public Accountants: www.orcpa.org/findacpa.asp
Oregon Board of Accountancy: www.egov.oregon.gov/BOA/
International Society of Forensic Computer Examiners: www.isfce.com