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It is 5:30 p.m. and everyone in your business has gone home for the day. You are working on finalizing the books to give to your accountant when you notice that your company has been sending monthly checks to a business you know nothing about. Then you realize that the signature on the checks is not yours. You find that a person who you believed was a trusted employee owns the business in question and that the business has never sold your company anything. Now what!?

Now What?

What To Do When You Discover Theft in Your Company

by Adam D.H. Grant

Speed and caution are equally important when reacting to suspected theft. Informing your team immediately is essential to determining your next steps. Contact your attorney (or obtain a referral to a business attorney), your bank representative, your accountant, your Information Technology (IT) professional and your insurance agent.

Legal Plan

Your attorney will assist you in avoiding commercial law pitfalls and navigating through possible labor/employment issues.

Each state has its own set of legal guidelines when embezzlement occurs. California law, for example, imposes the burden on account holders to review their statements monthly and advise the bank of irregularities. But what if the person who reviews your company's bank statements is also the person who embezzled? Maybe it is time to rethink your internal controls.

While most employees are "at will," which means they can be terminated with or without cause at any time, outright accusing an employee of theft in front of other employees raises the distinct possibility of being sued. If you did not take the time to find sufficient evidence of embezzlement before making your accusing statement, you may find yourself in a lawsuit over slander.

Bank Actions

Your bank will assist you in stopping the flow of cash from your bank account to the embezzler. Avoid making statements to your banker as undeniable facts because of slander concerns.

The bank can determine if there are more uncashed checks to the dubious company. You can put an immediate stop payment on them. If the embezzlement involved wire transfers, you can trace them to determine who received the funds. Your

account will be reviewed to determine if there are any other irregularities.

Enlisting the Help of IT

Now that you have learned about the legal claims and defenses relating to your predicament and stopped the immediate flow of cash away from your business, your IT professional can now help identify other possible sources of losses and change access methods to your computer system. An IT professional can search servers, hard drives, emails and other forms of electronic data to identify the perpetrator and methods of theft and then put an immediate block on such activity. Valuable electronic data can also be obtained to assist you in recovering funds.

Are You Covered?

Once you have stopped the thefts, your energy should turn to recovering lost funds. Check your insurance policy. Many insurance companies offer coverage for employee theft. If you have sufficient coverage, you can recover a significant amount of your loss quickly. Additionally, if your carrier pays on the policy, the carrier, at its expense, will take the laboring oar in recovering the funds from the ex-employee.

Consider consulting with your attorney to determine whether you should file a lawsuit for embezzlement. Also, report the crime to the police. If the employee is convicted of a felony for stealing, some state statutes permit you to recover your attorneys' fees in a civil action on the same matter.

The key to addressing theft is a swift and measured response. Contact your trusted advisors, act based on their counsel and then discuss procedures that will prevent embezzlement from happening again.

Next month: how to prevent employee theft.