

❖ Theft in the Workplace: Practical Tips for Preventing Disaster

By Spencer Hamer

A manager and accountant of an Ohio club is indicted for charging more than \$100,000 of personal items on club credit cards. A comptroller of a Florida club is charged with stealing \$1 million from the club in four years. A general manager and controller of a Maryland club are each sentenced to 52 months for mail fraud and money laundering.

These real-life examples are sobering. Private clubs face unique challenges in dealing with employee theft. Employees encounter tempting targets, and often work with minimal supervision in expansive properties. In addition, security problems result in dissatisfied members and cancelled memberships. Fortunately, clubs have a variety of tools to prevent workplace theft.

Conduct Thorough Screening

Examine applications for work history gaps and reasons given for leaving jobs. Check references, going beyond those provided, if possible. Consider background checks and pre-employment testing, such as honesty and drug tests. Before screening, however, consult legal counsel. Certain laws, such as the Federal Fair Credit Reporting Act, apply, and screening methods can be challenged as unlawful discrimination, even absent evidence of discriminatory intent.

Enforce a Zero-Tolerance Theft Policy

Have a policy prohibiting misconduct, including theft, and consistently apply it. If a popular supervisor takes office supplies home or expenses personal meals and is not disciplined, other employees will receive the message that the club tolerates violations. Serious violations are more common when minor violations are not punished.

Monitor the Workplace

The club's employee handbook should make it clear that the club can inspect property, including workstations, desks, files, lockers, computers, e-mails, voicemails and items brought to or removed from club property, for any legitimate business purpose, without notice or employee consent. Indicate that employees should have no expectation of privacy in the workplace and that passwords and login devices do not create a privacy right. In addition, make it clear that all information pertaining to the club and its members is strictly confidential. Employees should also be cautioned about disclosing member information on social networking Web sites.

Use the Power of IT

Information technology provides employers with a host of options to detect misconduct. Computer screens can be monitored remotely. In addition, employees often forget that e-mail communications can be retrieved, even after they have been deleted. And, by setting computer backup systems to preserve information, employers can often quickly obtain "smoking-gun" evidence. Work with an IT professional to develop procedures that make sense for your work environment.

Develop Investigation Protocol

A procedure for prompt and thorough workplace investigations must be established. It should identify the person responsible for investigating, and explain how to gather information, interview witnesses, preserve evidence, maintain confidentiality, evaluate credibility, reach conclusions and take action.

Encourage Reporting

Employers should encourage reports of misconduct. It is better to confront problems head on, even those later found to be unsubstantiated, than to learn about an issue after it has spiralled out of control. Employees, however, are understandably reluctant to report supervisor misconduct, especially when they lack hard evidence. Thus, the

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employee handbook should set forth guidelines on how to report suspected impropriety. Consider using an anonymous reporting service, such as an (800) hotline, and designating an ombudsperson to receive complaints confidentially. Assure employees, through a written policy, that the club will not retaliate against them for good faith reports of misconduct, regardless of the outcome of the investigation.

Increase Security

By increasing security staff and improving lighting in high-risk areas, clubs communicate an enhanced commitment to security, which deters theft. Posting emergency contact information and reporting procedures improves communication and response time. In addition, surveillance cameras are a powerful deterrent and often prove invaluable in investigations.

Prepare for Public Communications

Club members or the public may learn about matters the club would like to keep confidential. When information becomes public, employers can exacerbate the problem by appearing defensive, secretive, confused or uncaring. Moreover, they risk defamation suits if communications are not vetted. When issues become public, management must develop a clear, consistent message. In addition, using the proper tone when communicating the message is critical. Consider training a spokesperson in advance. For particularly sensitive situations, or if media scrutiny is an issue, retaining a consulting firm that specializes in crisis management often makes sense.

Conduct Self-Audits

Regular audits to identify risk, hazards, employee attitudes and member concerns are critical. Whether conducted internally or by an outside consultant, audits identify problems before they occur and convey the message that the club cares about the safety and security of members and employees.

Taking practical steps to prevent theft raises a variety of legal issues under federal and local laws, and legal counsel should be consulted in advance. Nevertheless, clubs that take a proactive approach will be in a better position than those that wait for a crisis to occur.

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❖ Legislative and Regulatory News

IRS Releases Revised Form 990

The Internal Revenue Service (IRS) has released the 2009 Form 990, schedules and instructions that have been revised to clarify certain reporting requirements for tax-exempt organizations. Most of the changes are intended to clear up any confusion that can lead to compliance issues for filing organizations.

Several changes were made in Part VI of the new form, which deals with governance and disclosure. The instructions for the 2009 form now clarify that if two officers, directors or trustees serve in similar positions with another tax-exempt organization, involvement does not create a reportable business relationship between the two organizations. The new instructions also explain that filing

