

Classroom Exercise

New Mexico Employee Embezzles Money from Company—Again

Assume your company finds out an employee has embezzled money. Because reporting it to police could cause a lot of reputational damage, the company decides instead to file a civil lawsuit against the individual and is able to regain the stolen funds. This seems to be an effective way to avoid lots of negative publicity and hold the perpetrator accountable, at least for the funds he or she stole. Many firms do not even get the money back but simply send the fraudster away to avoid bad publicity and embarrassment.

However, by failing to make the fraud known, has the company unwittingly allowed the fraudster to commit fraud at another firm? Such a situation occurred at a company in Albuquerque, New Mexico. After employee Daniel Marsh resigned from Kachina Petroleum Equipment Co. in 2006, the company realized that some checks were missing from company bank statements. An investigation revealed that Marsh had been stealing from the firm. Instead of alerting the police, the company filed a civil suit against Marsh and was able to recoup \$100,000. However, a good question to ask is whether Kachina Petroleum had the ethical responsibility to formally report Marsh so that the fraud would be on his record. Smaller businesses often do not have the resources to engage in lengthy trials. This lack of resources actually increases chances of fraud at small businesses—it is estimated that small businesses are the most common in fraud cases at 31.8 percent.

Unfortunately, in this case the lack of charges enabled Marsh to get a job as a CFO at Weststar Mortgage. Over a two-year period, Marsh stole \$316,000 from the firm to fund housing improvements, property purchases, his gambling addiction, and prostitutes. It is estimated he spent \$1,000 a week gambling and \$1,500 a month on prostitutes. Marsh would divert the funds to his own company, Marsh Accounting. He also would write checks to his friends and family.

The fraud would have gone on longer, but incorrect routing information on a wire transfer in 2013 caused the bank, Wells Fargo, to send back the transaction. This alerted Weststar, which decided to conduct an audit. They found that Marsh had made 99 separate transactions in the past two years. After confronting Marsh on November 21, 2013, the company fired him. A search of his office revealed stolen goods not belonging to Weststar, including a Toshiba laptop that had been stolen from a Burlington Northern Santa Fe railroad employee's car. Marsh was trying to sell these goods through Craigslist.

This time the police were notified, and Marsh was arrested. It is important to note that Marsh at the time of the arrest was working at a new job at St. Pius High School. Marsh clearly had no trouble finding new employment, and if this case had not been reported to the police, he may have continued to embezzle at future firms.

Marsh entered a no-contest plea to one count of embezzlement over \$20,000 and one count of forgery. He argued that he should not have to go to jail because he cooperated with authorities and was willing to pay restitution. The judge sentenced him to 5 years in prison.

This brings up the question of who should be considered responsible for the fraud. Certainly Daniel Marsh himself is responsible for the embezzlement, but should the companies also be considered partially culpable? According to Marsh, Weststar had no internal controls to prevent the fraud from happening. It would appear that it was

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relatively easy for Marsh to steal from the firm. A strong control process that prevents giving too much power to one individual could have prevented the fraud or detected it sooner. Additionally, should Kachina Petroleum Equipment Co. be held somewhat responsible for not formally reporting the fraud to the authorities when they knew Marsh was a crook? Whatever the case, the true loss to Weststar will probably not be the money lost from the fraud, but will instead involve Weststar's customers questioning whether they can trust a firm that allowed extensive fraud to go on for two years before detection.

Questions

1. What responsibilities, if any, did Kachina Petroleum Equipment Company have in reporting the fraud discovered after Marsh resigned?
2. Do you think that Weststar had any controls for fraud prevention? Why or why not?
3. Do you view Marsh as being a victim of his addictions, or is he simply an untrustworthy individual who looks for opportunities to take advantage of companies?
4. Did Marsh believe that he would get caught and punished for embezzlement? Explain your reasoning.

Sources:

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