

WHITE-COLLAR CRIME

FIGHTER

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YOUR SECRET WEAPON IN THE WAR ON FRAUD

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IN THE NEWS

ID Theft Sentence Enhancement: New Deterrent?

The *Identity Theft Penalty Enhancement Act*, about to be signed by President Bush, will require that those convicted of the new crime of “aggravated identity theft” receive a mandatory sentence enhancement of two years.

Key: Aggravated identity theft is defined as ID theft committed in connection with other serious federal crimes such as immigration violations, false citizenship crimes various firearms offenses .

Important: The new bill also targets for stiffer penalties employees and company directors who abuse positions of trust and privileged access to sensitive information in order to commit identity theft or fraud.

The new law also directs the U.S. Sentencing Commission to toughen guidelines for punishing individuals who commit identity theft with the ultimate objective of carrying out terrorist acts.

White-Collar Crime Fighter sources:

Official U.S. House and Senate legislative documents related to the Identity Theft Penalty Enhancement Act.

IN THIS ISSUE

- **WALKING THE WALK**
Forget ethics and foster fraud..... 3
- **GETTING IT DONE**
“Selling” your corporate fraud case..... 4
- **LEGAL MINEFIELDS**
Legal traps for managers..... 5
- **THE CON'S LATEST PLOY**
Law-enforcement successes from around the country..... 7

Gary D. Zeune, CPA,
The Pros & The Cons

How to Foster Fraud Forget Ethics

One of the most powerful ways to protect your company against fraud is to implement a written ethics policy that defines fraudulent behavior and imposes a no-tolerance standard for such behavior.

Unfortunate: Very few companies actually live by an executive-led standard of behavior that infuses the organization with a culture of integrity...of zero tolerance regarding deception, cheating, theft and any other form of wrongdoing...and of respect for one another, for the organization and for its customers.

Instead, many organizations rely on employees’ “common sense” about what is fair and ethical business behavior. Or—worse—they tolerate an “everybody does it” attitude among employees. “It” of course refers to padding expense reports...surfing the Internet during the day...leaving work early in the summer months.

Risky: Leaving it up to each employee to decide what’s right or wrong in performing his or her job promotes an environment of self-interest in which fraud is likely to flourish.

Example: An employee traveling several days on business decides, after flipping through the TV channels and finding nothing interesting on, to watch a pay-per-view movie for \$9. Returning to the office, she submits her hotel bill of \$500 to the accounts payable clerk, who reviews the details, notes the movie isn’t a legitimate business expense, and violates company policy and therefore crosses off the \$9 charge. The employee is then reimbursed \$491 for the hotel bill.

Employee’s reaction: She thinks, “I’m out here working my butt off for 10 or 12 hours a day, earning this company three times my salary and missing my daughter’s soccer games...and my reward is to be nicked-and-dimed over a \$9 movie!”

Problem: The next time she goes out of town on business, she picks a pricey restaurant for dinner...uses valet parking at the hotel...claims out-of-pocket expenses like tips for cab drivers, maid service, concierge services, etc., and pockets cash reimbursed for faked and inflated charges.

Bottom line: The lack of realistic, fair ethics and anti-fraud policies left the traveling employee feeling badly treated. Her morale and productivity dropped as she plotted ways to get back the \$9 the company “stuffed” her—and anything extra she could collect in revenge pay. Her behavior wasted time and cost the company money. Worse yet, a formerly honest employee had become a thief.

ANTI-FRAUD CULTURE

Lesson learned: Companies that are “soft on fraud” and look the other way when someone—particularly someone at the upper levels of the corporate hierarchy—cheats or lies a little, are either fraught with fraud, or are well on their way to being so.

The key to promoting an anti-fraud culture is to talk candidly, honestly and often about ethical behavior and fraud...what economic crime is...who commits fraudulent acts...and what employees must do if they know or suspect someone is guilty of it.

Also key to turning an apathetic or fraudulent culture straight...

•**Set the standard for workplace behavior.** It's human nature for people to act the way they see those around them acting. So if you use the company as your own personal piggy bank...take home "extra" materials from an office renovation...or copy business-licensed software for your own personal home use, you can be certain that co-workers and subordinates will do the same things...and worse.

•**Directly involve employees in development and implementation of the anti-fraud/ethics policy.** Assemble a team of employees from all departments and levels of the organization to research and draft your corporate ethics code of conduct and anti-fraud policy.

Benefits: A team assembled and sanc-

tioned by top brass sends the message that management is committed to promoting an anti-fraud culture that applies to everyone. Also, policies drafted by employees are more likely to be "owned," enforced and adhered to.

Of course, top management, including the general counsel, must monitor and enforce the code of ethics. You can't leave it up to employees to do it on their own.

•**Conduct fraud awareness training.** Educate employees at least once a year about fraud, corporate ethics and anti-fraud policies and reporting practices.

Include specific examples of behaviors that are acceptable and those that constitute fraud. *Examples:*

Explain that it's okay to make an emergency personal phone call to the school if your child is sick, but it's fraudulent to make long-distance phone calls to a girlfriend in Thailand on the company's dime.

It's fine to drive a few miles out of your way while on a sales call to pick up your suit from the cleaners, but it's considered fraud if you take a driving vacation to North Carolina and then claim the mileage for a tax deduction for reimbursement purposes.

It's okay to check your personal E-mail during your lunch hour, but it's against the company's ethics policy to surf Internet porn sites (and outright illegal to download the images) while you're at work.

•**Make it easy for employees to "do the right thing."** My employees are ex-cons who've committed frauds up to \$350 million, so I am always looking for ways to make it easy for them to adhere to the policies of my company and obey the law. Of course, you don't have to steal \$350 million to be helped in avoiding stupid decisions.

Example: I learned that reimbursing expenses for my speakers when they travel on behalf of my company was a huge waste of their time and mine in preparing expense reports...cross-referencing receipts... and having them wait two-to-three weeks for a check.

I analyzed and found that flights average \$400 and miscellaneous items, taxis and meals total about \$80 per day. I told my speakers I'd give them \$500 per day for their flights and \$100, and they could use that money any way they'd like. Now, they work to keep expenses low so they can pocket whatever they don't spend, and I don't care what they spend because I've already paid them for the trip. It's a simple win-win solu-

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Mission Statement

White-Collar Crime Fighter provides information of maximum practical value to organizations and individuals involved in all facets of investigating, detecting and prosecuting economic crime.

This community includes law enforcement officers...regulatory officials...corporate security professionals...business owners and managers...private investigators...and many more.

The editors of *White-Collar Crime Fighter* strive to gather and compile the most useful and timely information on economic crime issues.

Comments, suggestions and questions are welcome. Please fax us at 203-431-6054, or E-mail us at editor@wccfighter.com. Visit us on the Internet at www.wccfighter.com.

**Lying to Suspects:
Where to Draw the Line**

Deceiving suspects is a common, and widely acceptable interviewing tactic. But—investigators must know where acceptable deception ends and impermissible lying begins.

Case law says that interviewers can tell the suspect that the evidence indicates that he committed the crime, even if that is an exaggeration. They can also compliment the suspect by saying that he appears to be a conscientious and caring individual, even though there is no truth to the statement.

Key: These false states are often effective in creating an environment where the suspect feels comfortable telling the truth.

When to stop: Never fabricate evidence in the course of an interview. In a Florida case, police created a fictitious crime lab report which indicated that the suspect's DNA was found on the victim. After reading the report, the suspect confessed. At trial his confession was suppressed because of the court's concern that such bogus evidence may find its way into a court room and undermine the integrity of the evidence management system.

Critical guideline: Distinguish between false assertions and manufacturing evidence. In the Florida case, the suspect's confession might have been upheld had the investigator only made a false statement, such as "We have a crime lab report and your DNA was found on the victim."

White-Collar Crime Fighter source:

John E. Reid & Associates Inc., pre-employment screening, loss prevention and criminal interviewing training consultants, Chicago, IL, www.reid.com.

tion...and I avoid wasting time trying to control expenses I no longer need to control.

• **Follow the “Ronald Reagan Rule”:** *Trust but verify*. Trust is not an internal control. It's fine to empower employees to do their jobs and to assure that you trust them to perform their tasks honestly. But also implement strong internal controls to check—and double-check—that the numbers add up.

Best: Avoid being predictable. Conduct regular audits of company assets and accounts. Let them know the audits will be done on a random basis. Mix up the days of the week and the months of the year when you conduct the audits.

Also important: Avoid letting financial discrepancies below a certain amount go uninvestigated, simply because you assume shortfalls are due to miscellaneous, cash or otherwise uncategorized expenses.

Randomly select one of these “below-the-limit” discrepancies every month and ask the employee(s) responsible for records or receipts to justify and explain the variance. And don't let them persuade you that by doing this you're wasting their time.

Problem: Spelling out the descriptions and consequences of violations of the company's fraud policy is great. But failing to consistently enforce the rules renders them useless ...and conveys the message that fraud is easy to get away with.

Fraud prevention consultants and law enforcement fraud specialists can be helpful in developing a formula for matching the severity of the crime with the punishment.

Key: Consistency in meting out punishment. If an accounts payable clerk steals \$5,000 and gets fired, but a VP of manufacturing keeps his job, you've just told the workforce that the punishment is based on who you are, not what you did.

White-Collar Crime Fighter source:

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