RECOGNIZING AND PREVENTING FRAUD and EMBEZZLEMENT
Beckers Spine, Orthopedic and Pain Management ASC Conference

June 9-11, 2016

Presented By:
Debra Phairas, President
Practice & Liability Consultants, LLC

www.practiceconsultants.net
© Copyrighted 1992, revised 1993-2016
Embezzlement

- Taking of money/property from the person it was entrusted
‘Sorry’ Madoff pleads guilty

Financier Bernard Madoff apologized and pleaded guilty Thursday to 11 charges; he may be locked up the rest of his life. Sentencing is June 16. See Business, C1
Woman Admits Stealing $2.3 Million from Employer to Buy Lottery Tickets

By Frank Eltman

RIVERHEAD, N.Y. (AP) _ A former bookkeeper for a doctor's office pleaded guilty Wednesday to stealing more than $2.3 million from her employer to buy lottery tickets.

Annie Donnelly, 38, of Farmingville spent as much as $6,000 a day playing lotto and scratch-off lottery games, prosecutors said. She faces four to 12 years in prison for stealing the money from her employers, Great South Bay Surgical Associates.

Donnelly, who is being held in lieu of $150,000 bail, also will have to repay the money. She is charged with second-degree grand larceny.

"She obviously had a gambling problem," said Donna Planty, assistant district attorney. "She appeared to be caught up in the high of winning."

Investigators believe Donnelly may have won jackpots of $5,000 or even $25,000, but never enough to cover the amount stolen overall, Planty said.

Defense attorney George Vlachos declined to speak with reporters. A telephone call to the employer was not immediately returned.

Planty said that between June 2002 and November 2005, Donnelly wrote company checks for cash, petty cash, or checks payable to herself and falsely listed them as payments to vendors associated with the medical office.

She used the money to "feed her pathological addiction," said Suffolk County District Attorney Thomas Spota. The average check was for less than $3,000, and Donnelly wrote them in oddly numbered amounts to avoid being caught, prosecutors said. She also would "move money around" to different accounts to elude discovery.

In the first year Donnelly stole $41,261. Each year, the thefts increased, with nearly $1.4 million stolen in 2005.
Overview

• ESTIMATED 1 IN 6 MDS will be embezzled

• AMEDnews.com 1/17/2011 MGMA survey
  – 83% of 688 practice managers were affiliated with a practice where employee theft had occurred.
  – 45% reported cash stolen before and after recorded on the books
Association of Certified Fraud Examiners 2008-2009

- Businesses with fewer than 100 employees accounted for 33% of cases
- Median Loss = $155,000
- Health Care ranked 5th in number of cases
Underlying Factors

Family Practice Management Nov/Dec 2011
www.aafp.org/fmp

• Incentive or pressure to commit fraud

• The ability to rationalize or justify the fraudulent behavior

• Perceived opportunity to get away with it.
The Potato Chip Factor

- Embezzlers cannot just stop with one chip, they keep nibbling.
Points to Remember

• An “Ounce of Prevention is worth a Pound of Cure”

• Most employees are trustworthy
Poor Management

- Failure to Appreciate Employees
- Lack of Accounting Control
Owner/Manager Victims

Embezzlement is the toughest on the business owner/manager because it ravages the self-esteem of its victims. Sympathy abounds when your business suffers a fire, natural disaster or fatality.

Being ripped off from the inside shatters trust and leaves owners/managers feeling foolish. Typical responses:

“Feeling like the newest member of the stupid club.”
“But we trusted him/her completely”
“She/He was like family”

are several of the laments heard from those taken through embezzlement.
UNDERLYING MOTIVATION

• Employees Feel:
  – Underappreciated
  – Underpaid
  – Overworked
Underappreciated

- Catch Someone “Doing Something Right”
- MDs trained by humiliation in rounds, not great role modeling
- Schedule Morale and Team building Activities
Holiday or Appreciation Parties
Underpaid

- Survey area office to determine market wage ranges
- Provide health insurance or flexible benefits
- Average raise = 3% per year
Overworked

• MD must know State Labor Law
  – Exempt = Salaried
  – Non Exempt = Hourly Entitled to Overtime

• Exempt =
  – Office Manager with supervisory responsibilities is Exempt employee
  – NP and PA exempt

• Non-Exempt =
  – MA, Receptionist, Billers, Medical records, X-ray, RNs, LVNs
Non- Exempt

- Know state required lunch break times per hours worked.
- Know required rest breaks per hours worked
- Know Overtime requirements at 1.5 times rate
- Know Double time requirements
Practice Overhead

• Share information about practice overhead and increases

• Staff need to have an appreciation of what it costs to run the practice

• They may have false reasoning if they only see the revenue inflow
Personnel Policies and Procedures

• Have written employee handbook which states stealing is grounds for immediate termination.

• Employee must sign they read and received the manual. This signature goes in their personnel file.

• Stealing includes medical and office supplies/samples, Rx pads, use of the internet, telephone long distance, etc.
Wealthy Doctor Image

- Don’t flaunt standard of living
- Spouse jealousy
- Staff may feel” I am just as important and deserve to live as well”
Signs of Embezzlement

• Employee does not take vacations

• Employee takes vacation but insists no one does billing/bookkeeping while gone

• Employee takes billing/bookkeeping home
Signs of Embezzlement

• Employee works long hours without complaint

• Employee works odd hours, early am, late evening
Signs of Embezzlement

- Employee lifestyle changes – expensive car, jewelry, clothes or vacation
- Employee talks about stress, family pressures, financial problems
- Employee acts defensive about bookkeeping/billing
Signs of Embezzlement

- Employee volunteers to take on bookkeeping/billing
- Employee quits suddenly, particularly when CPA or consultant comes into the practice
- Office morale suddenly changes –
  - Conduct Anonymous Survey yearly
  - [www.surveymonkey.com](http://www.surveymonkey.com)
Signs of Embezzlement

• Patients/Vendors complain about billing/bookkeeping errors

• Revenues stabilize or drop

• Expenses in one category or total increase
Signs of Embezzlement

• Checkbook is not current or balanced

• Accounts receivable is not balanced, aging out of control

• Increase in credit refunds – Ortho Example
Signs of Embezzlement

- Vendors send past due bills, threaten to cut off
- Petty cash checks increase
Accounting Control

- Practice lacks accounting controls – it is too easy to take money

- No one person should have control over the entire transaction of cash

- Separate duties as a double check
Accounting Control

• Rotate opening of mail, do not let same person open mail and post payments.

• Don’t depend on your CPA to catch embezzlement
Accounting Control

• Have bank statement go to your house or come to the practice unopened placed on your desk.

• Have an outside bookkeeper, CPA or someone reconcile the bank statement.

• Review Electronic transfers carefully, manager may transfer funds to his/her account.
Verify Vendors

• Make sure no conflicts of interest with vendors:
  – Manager contracts with transcription service (friend) pays vendor, internal staff at practice really doing the work.
  – Manager creates false vendor and creates invoices
Partner/Spouse Embezzlement

• Shareholders/partners are entitled to a comparative detail P/L and balance sheet every month.
  – Case Example: MD had mistress, paying apartment, etc out of practice funds, did not share financials with junior partners
  – Case Example: Spouse had cocaine problem, took over A/P and billing to embezzle
Spot Check

• Perform spot checks
  – Match daily schedule against posting and deposit slips

  – Many software programs have “missing encounter” feature – When choosing new system purchase this.

• Monitor level of co-pays
Control of Cash

- Receipts should be given for cash
- Numbered and sequential
- Carbon copy
- Monitor especially at first of year with deductibles
Writing off Accounts

• MD should set limits of write off ability = Example: $50.00

• MD should meet regularly with biller to discuss and approve write offs
Deposits

- Checks should be stamped “For deposit only”
- MD may wish to make deposits or have service come to pick them up
- Consider “Lock Box” PO Address at bank for checks to go directly to bank and deposited. EOBs/check copy sent to practice or billing service.
On Line Banking

• Be careful giving managers passwords & access to online banking unless double check by MD owner - too easy to transfer money to another account without writing a check

  – Spine Surgeon - Over 250,000
  – $400,000 embezzled from 10 MD practice

• Manager access to credit lines - Can use credit line to cover transfers to unauthorized accounts
Accounts Payable

- MD should sign checks
- Manager/bookkeeper presents for payment with valid invoice
- Review cancelled checks to determine appropriate vendor
- Review credit card statements carefully
Checks

• Don’t allow practice checks to be written for personal items

• Don’t allow employees to use your practice as the bank and write checks for cash

• MGMA study – 18% forged checks
Payroll

• Have an outside person double check the payroll

• Managers have included bonus or increased their own pay - Spine Surgeon $10,000

• Bank statement only shows total amount debited – You must double check payroll
Petty Cash

• Petty cash should have balance example $50.00. Sequential numerical receipt book and there should be a valid receipt attached or notation for cash taken out.
Co- Pay Cash Fund

• This should be separate from Petty Cash

• This has numerical sequential receipts

• Tallied daily and reimbursed back to level

• Monitor periodically
Confidential health care records go for $10 to $50 online. Medicare records can fetch $470.

**JAMES SCOTT,**
Institute for critical infrastructure technology
Reference Checks

- Ask references if employee ever **convicted** of embezzlement
- Application form must have this question – can fire easily if employee lied
- Ask if employee is bondable
- Credit checks
- Criminal checks
- Corporate Screening Services 1 (800) 229-8606
Drug Screening

• Consider drug screening as part of the employment process

• Occupational Medical Clinic performs these - usually $100 or less

• An employee with a drug problem may steal to support their habit
Why Background Checks?

• The U.S. Department of Justice reports that 1 in every 32 adults has a criminal record.

• The U.S. Chamber of Commerce estimates that 30% of business failures are directly related to employee theft.
Why Background Checks

- A report from ADP Screening and Selection Services has found that 44 percent of applicants lied about their work histories.

- 41 percent lied about their education
  - [www.studentclearinghouse.org](http://www.studentclearinghouse.org)

- 23 percent falsified credentials or licenses.

- ResumeDoctor.com shows that 42.7 percent of résumés have significant inaccuracies.

- Derm Office Manager example
Employers may videotape to prevent theft or other bad behavior in the workplace. Videotaping increases safety to all employees, promotes good behavior or preserves crime evidence.

However, your employer may have violated your right to privacy if they videotaped you in areas considered private and personal without a necessary business reason. Such areas include bathrooms, locker rooms or break rooms.

Employers must let you know why and where they use video and notify all employees in writing that video surveillance is conducted. They also need to ask you to sign a document saying you know you may be monitored. However, this doesn't stop them from doing it without your knowledge. Additionally, employers must clearly state the areas that are off limits from videotaping and explain they're for personal use and don't have any job related function.
Giving References

• Do not tell potential employers “I think she may have embezzled” if you didn’t prove it.

• If convicted, you must give this information if asked –
  – Can be sued for “Negligent Reference” for not protecting employer/public
Bonding

- Recommend employee bonding for those handling money
- Agency will perform background checks
- May recover losses
- Sends a message to employees you take this seriously
Prosecuting

• Too many embezzlers hop from practice to practice because no one prosecutes

• MGMA study –
  – 29% prosecuted
  – 82% terminated from job
3 Big Don’ts

“The worst thing you or a manager can do is take a hasty, haphazard approach to investigating theft.”

- Do Not Confront the Suspected Employee - until you have proof
- Do Not Terminate the Employee— Yet, until you have proof
- Do Not Share Your Suspicions with Other Employees— Yet - only if proven after it is over

Darrell D. Dorrell, MBA, CPA/ABV, CVA, ASA, DABFA, CMA, is a principal and founding partner of FinancialForensics in Lake Oswego, OR (www.financialforensics.com). He is a former member of the Editorial Board of The Value Examiner.

Gregory A. Gadawski, CPA/ABV, CVA, CFE, CIRA, is a principal and founding partner of FinancialForensics.
Prosecuting

• Get police or FBI involved

• They will set up sting operation

• If they won’t prosecute, contact an attorney

• Must follow through to send staff message
  – Spine Surgeon Example
  – IM Subspecialty Example
Prosecuting

- Staff may be remorseful
- Repayment plan worked out
- Re-possession of assets
- Jail
Tax Consequences
Adding Insult to Injury

• May have to report “phantom income” and pay taxes on it. Proceeds of embezzlement must be included in gross income unless the embezzler repays the money in the same taxable year.

• Income is taxable to the person who does the embezzling (revenue ruling 61-185, 1961-2 CB 9; revenue ruling 65-254, 1965-2 CB 50; James v. United States, 366 US 213 (1961), Ct. D. 1863). The embezzled amount should be included in the embezzler's gross income in the year of the embezzlement. In addition, the embezzler/employee may be subject to self-employment taxes on the embezzled amount.

• Consult with CPA
Executive Summary

• Prevent embezzlement by showing appreciation to staff.

• Perform background checks on staff who handle money.

• Implement Accounting Control. Separate transaction of cash duties, never let one person handle all aspects of opening mail, posting, balancing, making deposits and reconciling the bank statement.

• Do not allow managers to sign checks or have access to on-line banking and lines of credit.

• Be aware of “red flags” which may indicate embezzlement.

• Prosecute and try to obtain restitution.
Thank you for Attending!

• If you have questions:
  Contact Debra Phairas, President
  Practice & Liability Consultants
  415 764-4800

  dphairas@practiceconsultants.net
  www.practiceconsultants.net