

# Ohio Public Treasurers Association

## Embezzlement in Public Office

Presented by Sara M. Costanzo  
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Weltman, Weinberg & Reis Co., LPA  
*The single solution for every single creditor.*

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## Today's Agenda

- Introductions/Weltman overview
- Embezzlement versus theft
- Types of embezzlement
- Federal and state laws
- Red flags
- Avoiding Losses
- Case Examples




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## About Us


- Full-service collections firm with Ohio presence
- We represent nearly every type of creditor with:
  - Bankruptcy assistance
  - Municipal debt collections
    - Tax
    - Utility
    - Nuisance
    - Property damages




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## About Us

- We operate with the strictest adherence to compliance and security standards, with a premium on reputation management
- To learn more about our leadership in accounts receivables management visit [weltman.com](http://weltman.com)



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# Embezzlement Versus Theft

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## Embezzlement


- Involves the fraudulent appropriation of property or money that someone has been entrusted with, to utilize it for their own benefit
- Could be cash, company checks, jewelry, electronics, or even postage stamps

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## Embezzlement

- Different from regular theft because the person who takes the money or property generally has trusted and legitimate access to the valuables before they take them for their own use
- Can take a variety of forms:
  - A cashier taking a small amount of cash out of a cash register on a single occasion
  - A more sophisticated embezzlement scheme, using phony vendors and invoices to steal millions of dollars over a period of years




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## Embezzlement

- In 2017, state audits uncovered \$3.4 million in missing funds over the decade prior, from 77 government groups across the state
- Many cases were connected to theft, with 53 convictions resulting
- 20 of those 77 cases were inside the utility clerk's office, most often involving cashier level employees who deal directly with community members for payment intake

*\*Ohio Auditor's Office*




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## Embezzlement

**Entities with findings since 2007**

Villages	22
School districts	15
Courts	8
Counties	7
Cities	6
Agricultural societies	3
Libraries	3
Health department	2
Sheriff's departments	2
Townships	2
County treasurer's office	2
Ambulance district	1
Charter school	1
Environmental services department	1
Park district	1
Water and sewer district	1



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## Types of Embezzlement

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## Types of Embezzlement


- Adjusting journal entries
- Void schemes
- Check substitutes
- Fictitious vendors
- Expense report padding

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## Adjusting Journal Entries

- Background:
  - Certain situations require changes to the balance on a customer's account to correct billing errors such as inaccurate meter readings or erroneous late fees
  - Employees typically remedy these mistakes by creating entries in the entity's billing system, called non-cash adjustments
    - This either increases or decreases the account balance to the proper amount owed



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## Adjusting Journal Entries

- For example: an employee who receives a customer's payment does not record the transaction as a payment in the billing system
  - The employee pockets the cash and creates a fraudulent adjustment to lower the customer's account balance back to zero
  - Employees are more discreet and steal only part of a customer's payment, adjusting the account balance only enough to offset the stolen amount

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## Adjusting Journal Entries

- The use of this scheme ensures the entity's cash journal balances at the end of the day and leaves little, if any, trace of the transaction to the untrained eye
- The tactic prevents the victimized customer from receiving a delinquent payment letter because his or her account balance shows no amount owed

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## Void Schemes

- Background:
  - As many entities transition to web-based payment options, cash registers still prove useful for citizens who prefer to pay in person for utility payments, title and permit fees, and other public services
  - Wherever cash registers are present, there also exists a need to cancel erroneous payments through voids
  - When this procedure goes unchecked, local government dollars are left vulnerable to thieves who characteristically seek opportunities for fast money and an easy way to sweep their crimes under the rug

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## Void Schemes

- The tactic works by manipulating an entity's paper trail to appear as if a customer's payment was refunded
  - After a customer makes a payment, the offending employee re-enters the billing system and voids the transaction
  - This maneuver shows the funds exiting the entity's system, allowing the employee to pocket the customer's payment with little evidence left on the government's side of the transaction

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## Void Schemes

- This scheme is risky when it comes to the customer's side of the transaction
  - All it takes to blow the lid off the employee's ploy is one victimized customer who realizes his or her permit, title or utility payment is invalid despite having evidence in the form of a receipt

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## Substitute Check Scheme

- Local governments occasionally receive atypical revenue in the form of mailed checks for rebates, insurance claims and other one-off payments
  - These unexpected checks are a welcome sight for thieves looking for fast money and an easy cover-up



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## Substitute Check Scheme

- In a check-substitution scheme, an employee with access to the entity's mail stumbles upon one of these checks and sets it aside until it is time to strike



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## Substitute Check Scheme

- For example: a fiscal officer receives a letter that contains a \$100 rebate check for an equipment purchase
  - Instead of recording the check in the accounting system, the fiscal officer discretely slides the check into a desk drawer and waits for a few customers to make cash payments
    - The perpetrator must wait for enough customer cash payments to accumulate to a sum that covers the check amount and avoids drawing attention
    - Then the fiscal officer substitutes the rebate check for an equal value of \$100 from the customer payments

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## Substitute Check Scheme

- This tactic ensures the sum of the revenue listed on the deposit slip agrees with the actual amount of cash and checks on hand, without raising suspicion to the fact that \$100 in cash was just stolen



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## Substitute Check Scheme

- This trick does usually leave a noticeable trace for those who know where to look
  - Deposit slips list the makeup, or tender type, of each deposit by specifying the total amount of cash, as well as the amount and unique number of each check
  - The substitution of a check for cash creates inconsistencies between the breakdown listed on the deposit slip, the actual amount of cash and checks on hand, and the amounts recorded in the accounting system

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## Substitute Check Scheme

- For example: a deposit slip that lists \$500 in cash will no longer match the actual amount of cash inside the bank bag if someone substitutes a \$100 check
  - While the overall amount recorded on the deposit slip is still accurate, only \$400 in cash is present in the bank bag
  - The bank bag now contains an extra \$100 check that is absent from the deposit slip and the accounting system

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## Fictitious Vendors

- Background:
  - Fictitious vendor fraud generally involves an employee in a position where they can create, authorize or approve payments to vendors

Three Common Fraud Schemes:

- Payments to Fictitious Vendors
- Payroll Fraud
- Lapping Accounts Receivable



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## Fictitious Vendors

- An employee may set up a legitimate looking business, and create invoices from that business, submitting them to the company for work that was never done, or goods that were never provided
  - The company or employee will approve the payment and send it to fraudulent company
  - The employee will deposit the payment for their own use, in some cases using money laundering techniques to distance themselves from the cash



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## Fictitious Vendors

- Employees who engage in fictitious vendor embezzlement may start out converting small amounts of money, testing their scheme, and later get more ambitious, possibly taking millions of dollars before their fraud is ever detected
- A man in Ohio was charged with embezzling almost \$9 million in his position as an accountant through a fictitious vendor scheme, over the course of more than 10 years



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## Expense Report Padding

- Background:
  - Expense reimbursement fraud makes up about 15% of business fraud the Association of Certified Fraud Examiners
  - It takes an average of about 24 months before expense report fraud is detected

- The Association of Certified Fraud Examiners



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## Expense Report Padding

- Types of expense report fraud:
  - Claiming non-business related items
  - Inflating acceptable expenses – a \$5 Uber turns into a \$15 Uber charge (generally receipt is missing)
  - Overcharging the company card
  - Double billing – charging an item more than once, under separate events/trips
  - Exceeding the limits for allowable expenses - splitting large amounts into two or three items on the expense report



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## Federal and State Laws

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## Federal and State Laws

- Depending on the situation, embezzlement can be tried as a state or federal crime
  - Under federal law, embezzlement may be prosecuted as theft of public money or property, theft by government employees, or through theft of money from a bank or financial institution



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## Federal Laws

- [18 U.S. Code Chapter 31 - Embezzlement and Theft](#)
  - Whoever embezzles or converts for their own use any record, voucher, money or thing of value from any U.S. government agency or department can face up to 10 years in prison, and a face a heavy fine, in addition to repayment of any illegal gains

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## Federal Laws

- [18 U.S. Code § 641 - Public Money, Property or Records](#)
  - Any officer charged with safe-keeping public money who converts it to their own use, is guilty of embezzlement, and can be sentenced to up to 10 years in federal prison

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## Federal Laws

- [18 U.S. Code § 648 - Custodians Misusing Public Funds](#)
  - Any disbursing officer of U.S. governmental agency or department who converts any public money to their own use is guilty of embezzlement
  - A conviction under this provision carries the possibility of up to 10 years in prison

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## Federal Laws

- [18 U.S. Code § 653 – Disbursing Officer Misusing Public Funds](#)
  - Any officer or employee of any U.S. government agency or department who embezzles or wrongfully converts money or property of another for their own use faces a fine, and up to ten years in a federal prison

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## Federal Laws

- [18 U.S. Code § 654 – U.S. Officer or Employee Converting Property of Another](#)
  - Any officer or employee of the U.S. or of any department or agency thereof, embezzles or wrongfully converts to his own use the money or property of another which comes into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or employee

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## Federal Laws

- [18 U.S. Code § 654 – U.S. Officer or Employee Converting Property of Another](#)
  - Shall be fined under this title or not more than the value of the money and property thus embezzled or converted, whichever is greater, or imprisoned not more than ten years, or both; but if the sum embezzled is \$1,000 or less, he shall be fined under this title or imprisoned not more than one year, or both

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## Ohio Laws

- Ohio Revised Code [Section 2913.02](#) – Theft
  - The charges and penalties depend on the amount of money or property involved in the theft
    - Less than \$1000: misdemeanor, punishable by 180 days in jail and/or fine of up to \$1000
    - \$1000 to \$7,500: fifth degree felony, punishable by 6 – 12 months in jail and/or fines up to \$2,000
    - \$7,500 to \$150,000: fourth degree felony, punishable by 6 - 18 months in prison and/or fines up to \$5,000
    - \$150,000 to \$750,000: third degree felony, punishable by 9 months in jail, up to 36 months in prison, and/or fines up to \$10,000

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## Ohio Laws

- Ohio Revised Code [Section 2913.02](#) – Theft
  - A theft from a person in a protected class (elderly, disabled, active military) is a felony in the fifth degree, but the charges elevate as the value of the property increases

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## Ohio Laws

- Ohio Revised Code [Section 2913.21](#) – Misuse of Credit Cards
  - A violation is a misdemeanor of the first degree
  - For violations involving one or more credit card accounts that occur within 90 consecutive days
    - If the cumulative value involved is between \$1,000 and \$7,500 – fifth degree felony
    - If the cumulative value involved is between \$7,500 and \$150,000 – fourth degree felony
    - If the cumulative value involved is \$150,000 or more – third degree felony

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## Ohio Laws

- Ohio Revised Code [Section 2913.21](#) – Misuse of Credit Cards
  - If the victim of the offense is an elderly person or disabled adult – fifth degree felony
  - If debt for which the card is held as security or the cumulative retail value...
    - Is between \$1,000 and \$7,500 – fourth degree felony
    - Is between \$7,500 and \$37,500 – third degree felony
    - Is \$37,500 or more – second degree felony
  - In addition, the offender shall be required to pay full restitution to the victim and a fine of up to \$50,000

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## Ohio Laws

- Ohio Revised Code [Section 2913.42](#) – Tampering with Records
  - Offense not involving data or computer software, tampering with records is...
    - A first degree misdemeanor
    - If the writing or record is a will unrevoked at the time of the offense – fifth degree felony

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## Ohio Laws

- Ohio Revised Code [Section 2913.42](#) – Tampering with Records
  - Offense involving data or computer software, tampering with records is...
    - A first degree misdemeanor
    - If the value of the data / computer software involved or the loss to the victim is between \$1,000 and \$7,500 – fifth degree felony
    - If the value of the data / computer software involved or the loss to the victim is between \$7,500 and \$150,000 – fourth degree felony

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## Ohio Laws

- Ohio Revised Code [Section 2913.42](#) – Tampering with Records
  - If the value of the data / computer software or the loss to the victim is \$150,000 or more – third degree felony
  - If the offense committed is for the purpose of devising or executing a scheme to defraud or obtain property / services and the value or the loss to the victim is \$7,500 or more – third degree felony
  - If the writing, data, computer software, or record is kept by or belongs to a local, state, or federal governmental entity – third degree felony



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## Red Flags

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## Red Flags

- Depending on the individual, their job, and the type of theft, embezzlement can take years to discover, and in some cases may never be discovered at all
- A number of red flags can alert an employer or company to possible embezzlement



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## Red Flags

- Things to watch for:
  - An employee living a lifestyle that appears beyond their means or having financial difficulties
  - Increased depletion of petty cash
  - A suspiciously low inventory of goods
  - An employee who is defensive about taking time off
  - An employee that has too close of a relationship with some vendors
    - May also put some employers on notice of a possible inside theft



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## Red Flags

- In some cases, discovery of the embezzlement will come from a tip from a co-worker or someone who suspects the employee is taking money or property
- Upon discovery of possible embezzlement, a company may conduct an internal investigation or take the information directly to law enforcement



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## Avoiding Losses

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## Avoiding Losses

- Control cash receipts – issuing for all cash transactions in duplicate
- Post all payments to a billing system
- Routinely reconcile money in hand with documented deposits
- Prepare bank deposit slips daily

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## Avoiding Losses

- Review spending trends over time between similarly situated employees
- Educate employees and train managers on approving expense reports
- Consider an automated expense management system
- Use purchase orders

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## Case Examples

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## Case Examples

- Former RTA board president plead guilty to theft charges
  - Accumulated unpaid health insurance premiums during his more than 2 decades with the Greater Cleveland RTA
    - Signed up for, but did not pay, the costs associated with RTA-provided health insurance
    - Ordered to repay \$132,000 in restitution

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## Misuse of Credit Card / ATM & Unauthorized Expenses

- Highland Heights – Scott Coleman (former Mayor)
  - Embezzled \$160,000 from US Rep. Dave Joyce's campaign
    - As treasurer of the Bainbridge township Republican's re-election operation between 2015-2018
    - Plead guilty to grand theft charges – a fourth degree felony
    - Repaid \$341,983.06 in restitution and investigative fees
    - Sentence still pending

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## Adjusting Journal Entry Scheme

- Village of Ripley – Katherine Lang
  - Drained nearly \$1 million from small community of 1,750 people
    - Had been in charge of the entire collection process
      - Creating utility accounts
      - Collecting and posting payments
      - Making deposits
    - Indicted in 2010 on 3 counts of theft in office and 7 counts of tampering with records
    - Sentenced to 13 years in prison
    - Restitution of \$1.1 million

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## Void Scheme

- Montgomery County – Rozalin Smith
  - Stole \$2,092 and an additional \$12,987 through other means
    - Incoming dollars from customer solid waste payments did not match the amounts transferred to the county treasurer's office
    - Plead guilty in 2015 to 1 count of theft in office and was sentenced to 5 years of probation and 40 hours of community service
    - Ordered to repay the stolen money

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## Check Substitute Scheme

- Pike County Clerk of Courts – Darla Smith
  - Stole \$1,700
    - Irregularities between court collections and deposits
    - Plead guilty in 2015 to 1 count of theft in office and was sentenced to 3 years of probation
    - Ordered to repay the stolen money

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## Pocketed Payments

- Fairview Park City School District – Kevin Liptrap
  - Stole \$59,000 from school proceeds
    - Handled deposit of revenue from athletic events and other student activities
    - Plead guilty in 2012 to 1 count of theft in office and was sentenced to 5 years of probation and 90 days in a halfway house
    - Ordered to repay \$122,142 in restitution and fees

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## Pocketed Payments

- City of Marion – Brenda Nwosu
  - Stole \$34,276
    - Pocketed \$17,375 from customer payments and another \$16,901 in proceeds from incoming checks
    - Plead guilty in 2015 to 1 count of theft in office and was sentenced to 18 months of probation
    - Ordered to repay the stolen money

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## Check Substitute Scheme

- Arlington Heights Mayor's Court – Donna Covert & Laura Jarvis (mother and daughter)
  - Stole \$260,000
    - Processing payments for fines, costs and bonds; resulting in a shortage between collections and deposits
    - Covert plead guilty in 2013 and Jarvis in 2015 to 1 count of theft in office and were sentenced to 1 year and to 9 months in prison
    - Ordered to repay the stolen money

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## Check Substitute Scheme


- Hillsboro City School District – Pam Ward
  - Stole \$6,548
    - Doctored financial records, failing to deposit lunch money collected
    - Plead guilty in 2012 to 1 count of theft in office and was sentenced to 5 years of probation
    - Ordered to repay the stolen money

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Questions?

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Please feel free to contact me anytime:



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