Ohio Association of Public Treasurers

Theft in Public Office – Again

Presented by Sara M. Costanzo October 5, 2023





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Today's Agenda

- Theft in office, embezzlement and fraud
- Federal and state laws
- Red flags
- Avoiding losses
- Case examples



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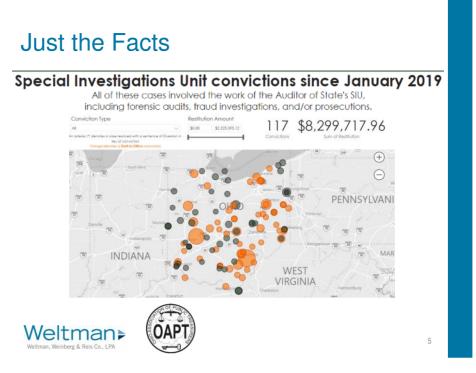
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Theft in Office, Embezzlement and Fraud

Just the Facts

- Statistic:
 - The Ohio Auditor Special Investigations Unit has assisted in 117 convictions resulting in more than \$8.2 million in restitution since 2019
 - Fraud hotline at 1-866-372-8364







Theft in Office

- A theft in office charge applies when a public official any public employee – uses his or her office to commit one of the various crimes categorized as theft: tampering with records, forgery, telecommunications fraud and passing bad checks, among others.
 - https://ohioauditor.gov/news/pressreleases/details



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Theft in Office

- Section 2921.41
- (A) No public official or party official shall commit any theft offense, ... when either of the following applies:
 - (1) The offender uses the offender's office in aid of committing the offense or permits or assents to its use in aid of committing the offense;
 - (2) The property or service involved is owned by this state, any other state, the United States, a county, a municipal corporation, a township, or any political subdivision, department, or agency of any of them, is owned by a political party, or is part of a political campaign fund.



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Embezzlement

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



Embezzlement - fiduciary

- 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 statistics

- Since January 2019
 - the Auditor's Special Investigations Unit has secured 116 convictions for fraud on 213 charges
 - resulting in 212 findings for recovery.
 - Total findings so far: \$20,461,339

https://ohioauditor.gov/publicintegrity/default.html





*Ohio Auditor's Office

Embezzlement 2023 numbers

75 Records for	und Criteria: Name Search: - , Entity Search: - , Month	: - , Year: 2023	, Status: Unres	olved
Name	Government Entity	Amount	Date Certified	Resolved
Allison, Melody	Wellsville Local School District	\$550.00	5/18/2023	No
Ashford, Velma	Village of Highland Hills	\$581.00	2/16/2023	No
Barnes, Glendon	Vinton Township	\$4,541.00	4/18/2023	No
Bauer, Estate of Edward	Wellsville Local School District	\$75.00	5/18/2023	No
Bayer, Nicklaus	Wellsville Local School District	\$273.00	5/18/2023	No
BioEnterprise	Cuyahoga County Convention Facilities Development Corporation	\$243,331.00	7/20/2023	No
Brady, Cheryl	Jackson County	\$45,692.00	5/11/2023	No
Buchert, Jacqueline	Village of Addyston	\$40,784.00	6/15/2023	No
Buckley, Maleta	Carthage Township	\$1,915.00	6/20/2023	No
Campbell, Shella	Shaker Heights City School District	\$2,929.00	6/22/2023	No
Carroll, Matt	Cuyahoga County Convention Facilities Development Corporation	\$113,062.00	7/20/2023	No
Carter, Dale	Village of Highland Hills	\$130.00	2/16/2023	No
Christman, Bryan	Shaker Heights City School District	\$6,574.00	6/22/2023	No

*Ohio Auditor's Office - https://ohioauditor.gov/findings.html



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Embezzlement 2023 pending

Clemons, Felita	Shaker Heights City School District	\$3,645.00	6/22/2023	No
Clinkscale, Kimberly	Hope Academy for Autism	\$3,815.00	3/28/2023	No
Collier, Jevette	Shaker Heights City School District	\$13,994.00	6/22/2023	No
Conners, Roger	Cincinnati Technology Academy	\$543,478.00	8/15/2023	No
Cooper, Lucas	Wellsville Local School District	\$151.00	5/18/2023	No
Dunstan, Kenny	Putnam County	\$1,263.00	7/11/2023	No
Firks, Justin	Bethel Local School District	\$2,000.00	4/11/2023	No
Francis, Nancy	Wellsville Local School District	\$3,102.00	5/18/2023	No
Francis, Nancy	Wellsville Local School District	\$17,717.00	5/18/2023	No
Gasser, Randy	Putnam County	\$1,263.00	7/11/2023	No
Hageman, Tina	Bethel Local School District	\$2,000.00	4/11/2023	No
Hanneman, Dennis	Putnam County	\$1,263.00	7/11/2023	No
Harris, James	Wellsville Local School District	\$509.00	5/18/2023	No
Hindall, Robin	Village of Risingsun	\$42,293.00	3/21/2023	No
Hindall, Robin	Village of Risingsun	\$718.00	3/21/2023	No
Hobbs III, John	State of Ohio	\$571.00	3/30/2023	No
Hobbs III, John	State of Ohio	\$571.00	3/30/2023	No





*Ohio Auditor's Office

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Embezzlement 2023 pending

Jones, Adrianne	Jefferson Township	\$2,061.00	3/14/2023	No
Jones, Angela	Village of Highland Hills	\$17,633.00	2/16/2023	No
Justis, Cathy	Village of Pomeroy	\$465.00	8/17/2023	No
Kunselman, Levi	Wellsville Local School District	\$335.00	5/18/2023	No
Lamb, Amy	Wellsville Local School District	\$107.00	5/18/2023	No
Love, Danita	Village of Highland Hills	\$18,600.00	2/16/2023	No
Malone, Michael	Vinton Township	\$4,541.00	4/18/2023	No
Mann, Roy	Jefferson Township	\$2,061.00	3/14/2023	No
McCombs, Jennifer	Village of North Lewisburg	\$2,159.00	4/6/2023	No
McGuire, James	Jefferson Township	\$354.00	3/14/2023	No
McLaughlin, Mike	Jefferson Township	\$2,061.00	3/14/2023	No
McNicol, Estate of Rebecca	Wellsville Local School District	\$97.00	5/18/2023	No
Medrano, Michel	South Central Local School District	\$311.00	5/25/2023	No
Morman, Michael	Putnam County	\$1,263.00	7/11/2023	No
Neal, Kelly	Village of South Bloomfield	\$15,543.00	5/4/2023	No
Oren, Stan	Putnam County	\$1,263.00	7/11/2023	No
Patterson, Sarah	Kingsville Township	\$1,177.00	5/18/2023	No
Powell, Kristi	Putnam County	\$1,263.00	7/11/2023	No
Powell, Kristi	Putnam County	\$367.00	7/11/2023	No





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Embezzlement 2023 pending

Prescott, Richard	Wellsville Local School District	\$140.00	5/18/2023	No
Richardson, Robert	Madison County Agricultural Society	\$2,950.00	1/10/2023	No
Rigdon, Debra	Oliver Township	\$512.00	2/23/2023	No
Roe, Geordon	Wellsville Local School District	\$1,127.00	5/18/2023	No
Rowe, Kari	Village of Swanton	\$128,684.00	6/27/2023	No
Russell, Emily	Wellsville Local School District	\$195.00	5/18/2023	No
Shank, Bryan	Village of Pomeroy	\$32,292.00	8/17/2023	No
Sink, Star	Richland Township	\$699.00	3/23/2023	No
Smith, Lanisa	Franklin City School District	\$2,893.00	6/8/2023	No
Stewart, Denessa	Village of Pomeroy	\$32,292.00	8/17/2023	No
Valentine, Jennifer	Village of Oak Harbor	\$26,489.00	2/7/2023	No
Valentine, Jennifer	Village of Oak Harbor	\$26,489.00	2/7/2023	No
Vierstra, Cy	Vinton Township	\$4,541.00	4/18/2023	No
Vierstra, Cy	Vinton Township	\$254,309.00	4/18/2023	No
Vierstra, Cy	Vinton Township	\$4,294.00	4/18/2023	No
Vierstra, Cy	Vinton Township	\$74,223.00	4/18/2023	No
Vierstra, Cy	Vinton Township	\$7,682.00	4/18/2023	No
Warrick, Christina	South Central Local School District	\$311.00	5/25/2023	No
Warrick, Christina	South Central Local School District	\$1,320.00	5/25/2023	No
Wells, James	Vinton Township	\$4,541.00	4/18/2023	No
Whetsel, Rick	Village of Risingsun	\$718.00	3/21/2023	No
Williams, Christa	Village of Unionville Center	\$89,570.00	7/6/2023	No





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Types of Embezzlement

Types of Embezzlement

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





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 Cont.

- 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.



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 Cont.

- 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.





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.
- 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 Cont.

- 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.





Substitute Check Scheme Cont.

- 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.



Fictitious Vendors Cont.

- 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 Cont.

- 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 <u>\$9 million</u> in his position as an accountant through a fictitious vendor scheme over the course of more than 10 years.



Expense Report Padding

- Background:
 - Expense reimbursement fraud makes up about 15% of business fraud.*
 - 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 Cont.

- 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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Fraud

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Fraud

- Involves the improper appropriation of property or money that someone has been entrusted with, to utilize it for their own benefit
 - Chapter 2913 of the Ohio Revised Code states that fraud, as a criminal act of deception, means
 - knowingly deceiving another or causing another to be deceived by any false or misleading representation, withholding information, preventing another from acquiring information, or by any other conduct, act, or omission.



Incentives or Motivation/Pressures

Personal financial pressures:

- Standard of living
- Living beyond means
- High personal debts or poor credit
- Student loan repayments
- Extended family issues
- Vices
- Unexpected crisis
- Change in life situation

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- Staffing issues

Organizational financial pressures:

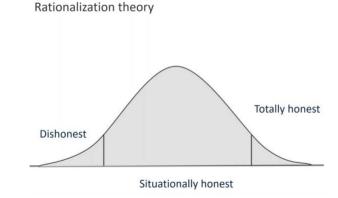
- Workload increase for those who remain
- Reimbursement reductions
- Shrinking budgets
- Increase in costs
- Regulatory pressures

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Rationalization





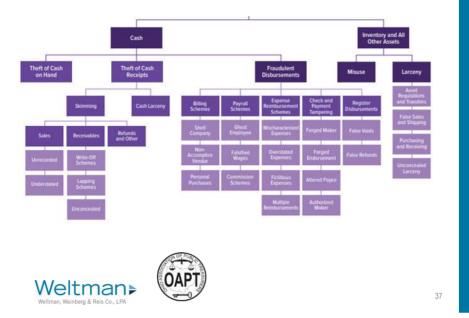
Who Commits Fraud

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Fraud Classification (Fraud Tree)

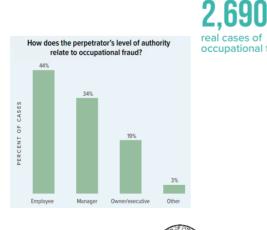
Indices of Interest Bribery Illegal Gratuities Economic Extornion Interest Brobery Illegal Gratuities Economic Extornion Varianing Invoice Sciences Billegal Gratuities Sciences Bid Rigging Training Differences Statements Bid Rigging Convelides Differences Sciences Bid Rigging Convelides Differences Improper Variation Understated Improper Variation Mathom Improper Variation Mathom Improper Mathom Mathom Improper Biocoscience Differences		Corr	uption	Asset Misappropriation	Financial Statement Fraud
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Fraud Classification (Fraud Tree)

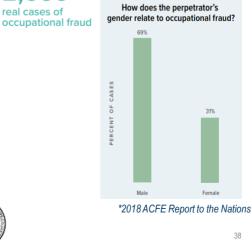


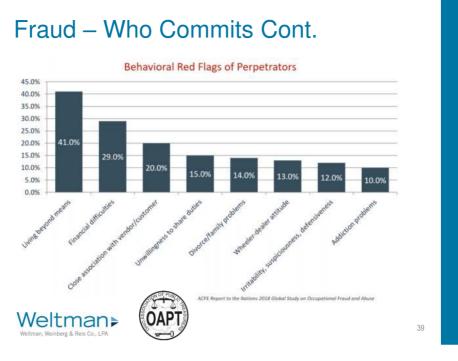
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Fraud – Who Commits











Federal Laws – Penalties Cont.

- **Prison:** Someone convicted of a federal fraud crime faces serving time in a federal.
- **Fines:** The fine for any conviction of a federal fraud law can be extremely high.
- **Restitution:** Restitution is paid by perpetrators of fraud to the victims in order to compensate them for their losses.
- **Probation:** A federal judge can impose a federal probation sentence individually or in combination with a fine or a term of imprisonment in some situations.



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Ohio Laws

- January 8, 2021
 - Increased the penalties to an F-2 for stolen amounts between \$150,000 and \$750,000 and an F-1 for amounts of loss greater than \$750,000.
 - Anyone who is found guilty of theft in office would be disqualified from holding any future public office, employment or position of trust in the state.
 - Requires the offender to pay back the forensic audit cost when the victim is a public entity.





Ohio Laws

- Fraud Reporting
 - All public offices, including community schools, must provide information about the fraud reporting system and the means of reporting fraud to all new hires.
 - All new employees must confirm that they received this information within thirty days after beginning employment.
 - Ohio Revised Code §117.103 requires the Auditor of State to confirm during the course of an audit, as provided in Ohio Revised Code §117.11, that public offices have so notified new employees.
 - The statute provides two ways to verify compliance: by signature acknowledgement or in a manual.



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Ohio Laws - Statutes of Limitations

- Felonies and misdemeanors
 - The general time limits are:
 - Six years for felonies
 - · Two years for misdemeanors
 - Six months for minor misdemeanors
 - (Ohio Rev. Code Ann. § 2901.13 (2019).)





Ohio Laws - Statutes of Limitations *Cont*.

- Theft-related and fraud offenses
 - Identity fraud: Six years after the crime, or if this period has expired, five years after discovery of the offense
 - Misconduct by public servant: Any time while the person remains in office or in their position, or two years after leaving office or the position
 - Offenses involving fraud or breach of fiduciary duty: One year after discovery of offense (if the underlying time limit has expired)
 - Felony theft (\$1,000 or more): Six years after the crime
 - Misdemeanor theft (less than \$1,000): Two years after the crime

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Red Flags

 "In most cases of public officials who lie, cheat, and steal from the public coffers, there are ample warning signs that should have been reported to investigators," Ohio Auditor Faber said. "We want people to be able to spot red flags of potential corruption and fraud and know how to report their suspicions to the appropriate authorities."



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Red Flags

- Depending on the individual, the job, and the type of fraud, it can take years to discover fraud. In some cases, fraud may never be discovered at all.
- A number of red flags can alert the possible fraud.
- Be aware of behavioral red flags.
- Set up and monitor a strong system of internal controls.
- Utilize anti-fraud controls.
- Utilize data analysis software.



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Red Flags Cont.



General Red Flags

- . Lifestyle changes: expensive cars, jewelry, homes, boats
- Disrespect for regulatory bodies
 - Photocopied or missing documents or altered records
 - Management decisions dominated by an individual or small group



Purchasing, Inventory

- Abnormal number of expenses, supplies, or reimbursements
- Service contracts for which there is no product
- Vendors without physical addresses or vendor addresses that match employee addresses



Corporate Credit Cards

- Minimal or no supporting documentation for charges
- No or minimal policies regarding access and use of credit cards
- No restrictions on types of purchases



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Red Flags Cont.



Portable Assets

- Missing records such as canceled checks or vendor invoices .
- Poor physical safeguards of property Unexplained increase in property loss



Accounts Receivable · Excessive number of voided receipts, customer discounts, and returns



Pressure to expedite payments

Payroll

Overtime charged during a slack period

Unreconciled bank accounts

- Employees with duplicate Social Security numbers, names, or addresses . Employees with few or no payroll deductions
- .

Behavior Changes Easily annoyed at reasonable questions

- Bragging about significant new purchases
- Creditors or collectors appearing at the workplace





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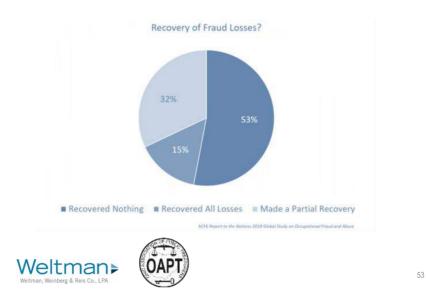
Red Flags *Cont*.

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





Avoiding Losses – Any Recovery



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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 Cont.

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





Case Examples

- A former southeastern Ohio county sheriff pleaded guilty to withdrawing department funds and using them for personal use
 - Former Meigs County Sheriff Keith Wood, who resigned in November, pleaded guilty to one felony count of theft in office as part of a plea deal. He was sentenced to 100 hours of community service, three years of community control and ordered to make \$5,000 in restitution.
 - The restitution includes money that was stolen and audit costs.
 - A violation of the plea deal would land Wood in jail for up to 12 months. He is also barred from serving in public office



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Case Examples – Sheriff Afoul

- Former Pike County Sheriff Charles Reader was sentenced to three years behind bars for theft in office, tampering with evidence and conflict of interest charges.
 - Reader pleaded guilty to stealing seized drug money last September. He was charged with five counts, including theft in office and tampering with records.
 - "Fairfield County Sheriff Gary DeMastry was sentenced to six years in state prison for various similar theft offenses. Athens County Sheriff Pat Kelly was sentenced to seven years in state prison for similar conduct. Sandusky County Sheriff Kyle Overmyer was sentenced to four years in state prison for theft of drugs and other related offenses. In addition, Mahoning County Sheriff Phil Chance was sentenced to 71 months in federal prison for his misconduct. Allen County Sheriff Samuel Crish was sentenced to eleven years in federal prison for his misconduct."



Case Examples – Falsifying Documents & Altering Transactions

- Former Athens Metropolitan Housing Authority director Jodi Rickard pleaded guilty to seven felony charges in exchange for an 8-12 prison sentence. She was also ordered to repay more than \$2.3 million.
 - sentenced Rickard to eight to 12 years in prison and ordered her to pay more than \$2.3 million in restitution.
 - She will be eligible for judicial release after five years and will spend five years on parole once she is released.



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Case Examples – Police Chief

- East Cleveland Police Chief, Scott Gardner, pled (not) guilty to felony financial crimes, having been indicted on charges of aggravated theft, fraud and theft in office
 - Allegations (prior convictions in Cuyahoga CR-14-582099 & Medina 13CR0701)
 - Falsified, destroyed, removed, concealed, altered, defaced or mutilated digital sales tax return records with the purpose to defraud (\$150,000 \$750,000)
 - Passed several bad checks in the amount of \$16,200 with the purpose to defraud US Bank and/or the Fraternal Order of Police, Lodge 39



Case Examples - Fictitious Vendor

- Robert M. Vanderhorst, 63, pleaded guilty in August 2022 in Clark County Common Pleas Court to two felony counts of theft and theft in office from 2005-2021
 - "This is one of the largest thefts committed by a public employee in our state and an egregious crime against the people of Clark County," State Auditor Keith Faber said.
 - The whistleblower, a co-worker, found a suspicious vendor account that received county payments but had no address, no tax identification number, and no description of work being performed.
 - Sentenced to 7 years in prison & ordered to pay full restitution



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Clerk of Courts

- Former deputy clerk Susan Barnett at the Lima Municipal Clerk of Court's office was sentenced in August 2022 to 3 years in prison.
 - Admitted she stole more than \$330,000 from the city between 1997 and 2012
 - Judge stated that the city to some degree helped facilitate the thefts by failing to provide adequate level of oversight and accounting practices
 - Ordered to repay \$331,706 in restitution



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Health Insurance Premiums

- Former RTA board president, George Dixon III, plead guilty to theft charges.
 - Accumulated unpaid health insurance premiums during his more than two 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 U.S. 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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Check Substitute Scheme

- Cuyahoga County Debbie Bosworth
 - Stole \$238,000
 - She worked for the Village of Chagrin Falls as a clerk in the building and utility departments, processing payments, making deposits, registering contractors, and other tasks. She would take cash from water bills and swap out checks from contractors for permits.
 - Plead guilty in in 2021 after being charged with two counts of theft in office, 13 counts of tampering with records, and seven counts of money laundering (22 felonies)
 - Ordered restitution of \$310,000 (to cover the cost of her theft and the forensic audit) and probation



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Pocketed Payments

- Cuyahoga County Karla Hopkins
 - Stole \$40,000 from Maple Heights High School
 - Handled deposit of revenue from class dues, yearbook fees, auto tech, student council, flag-drill teams, book fines, and ID badge fines
 - Plead guilty in 2021 to one count of theft in office (a third degree felony)
 - Sentenced to 18 months in prison, and restitution
 - She had emptied her pension prior to being charged, which prevented the state from seizing those funds to pay back the district.





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Pocketed Payments Cont.

- Belmont County David Smith
 - Stole \$24,467
 - Former mayor, had proceeds from mayor's court deposited into his personal account
 - Plead guilty in 2020 to one count of theft in office and conflict of interest.
 - Ordered restitution of \$24,467, plus the cost of an audit

 \$2,467. Also sentenced to 36 months incarceration for theft in office and 6 months for conflict of interest (to run concurrently)

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About Weltman

- · Nationally-recognized full service creditors' rights firm
- We represent creditors in:
 - Real estate default matters
 - Bankruptcy
 - Consumer and commercial collections
 - Commercial litigation
 - Municipal debt collections
 - Tax
 - Utility
 - Nuisance
 - · Property damages



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About Weltman

- We strictly adhere to compliance and security standards, with a premium on reputation management.
- To learn more about our leadership in accounts receivable management, visit weltman.com.



Questions?

Weitman, Weinberg & Reis Co., LPA The single solution for every single creditor."

Please feel free to contact me anytime:



Sara M. Costanzo Shareholder/Attorney

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