

LNP 223

Sticky Fingers and Embezzlement - Oh No!

If you own an LNC business and have an employee who handles billing and collections, or have an accountant, I recommend you pay close attention to this podcast as well as the one Kelly Paxton did called *Pink Collar Crime in Small Businesses: What to Look For*, which is LNP 222.

After we recorded Kelly's podcast, I talked to two business owners who were pink collar crime victims of embezzlement. I'll tell you their stories in a minute.

I'm Pat Iyer and this is *Iyer's Insights*, one of the twice weekly shows of Legal Nurse Podcast.

First, embezzlement is defined in most states as theft/larceny of assets (money or property) by a person in a position of trust or responsibility over those assets. Embezzlement typically occurs in a business, although it could also occur in a home when a person steals money.

An elderly woman I know who paid a caregiver to come into her home found the aide had written a check to herself for \$5000, took a suitcase and disappeared. Although the woman wanted her arrested, the woman could not be found.

Common examples of embezzlement occur when bank tellers or store clerks are given lawful possession of money, which is the property of the bank or business owner, during regular business transactions.

Employees might also take laptop computers or company vehicles.

A woman who owns a series of hair dressing salons became distracted by some personal problems and stopped closely monitoring the cash register. She told me one of her employees began stealing small amounts of money. This occurred over a few months, culminating in a loss of \$10,000. The attorney fees were \$10,000 and the insurance covered the loss.

Some embezzlers simply take a large amount of money at once, while others misappropriate small amounts over a long period of time. The methods used to embezzle can vary greatly and are often creative. They can include fraudulent billing, payroll checks to fabricated employees, records falsification, use of company credit cards for personal purchases, and more.

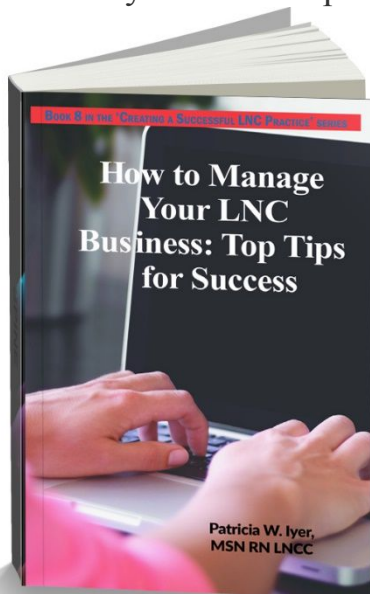
A man who ran a manufacturing facility trusted his bookkeeper to pay his credit card bills, he told me. He never reviewed them. This woman used the Staples card (an office supply company) to buy gifts for her friends. She also paid some of the workers in the factory a higher hourly rate than they were entitled to.

When the employee resigned, the owner became aware of her theft. While he told me it was \$75,000, his wife remembered it was \$250,000. The judge ordered the woman to make restitution at \$50 a month and told her she would go to prison if she missed a payment.

In order for a charge of embezzlement to be supported, four factors must be present:

- There must be a fiduciary relationship between the two parties; that is, there must be a reliance by one party on the other.
- The defendant must have acquired the property through the relationship (rather than in some other manner).
- The defendant must have taken ownership of the property or transferred the property to someone else.
- The defendant's actions were intentional.

This is Pat Iyer. I will stop this program for a minute to share a resource that I think will greatly help you manage your legal nurse consulting business. I wrote this book, *How to Manage Your LNC Business: Top Tips for Success*. All this talk of embezzlement may scare you if you have employees or think you'll have employees one day.



The reality is that if you want to grow your LNC business you will need to rely on others to handle invoicing and collections.

By following some safeguards, you can avoid being a victim of embezzlement.

This book is focused on how you can successfully manage your LNC business.

Section One focuses on the business processes that allow you to profitably manage your business. You will learn how to map out your business and pinpoint the essential factors. This section includes pointers for financial management, as well as how to accomplish your goals. You will discover to get more done through controlling distractions and effectively outsourcing and hiring.

Section Two includes tips on the most important relationship in your business – the one you have with your clients. You'll learn how to deepen your connections with your clients through your communications. When conflict or the need to negotiate arises, the tips in this section will give you the confidence needed to tackle some of the world's best negotiators. Lastly, you'll see how an attorney views the skills of an LNC.

This book is one in a series designed to give you the essential knowledge you need to grow your business. Order this book at <http://LNC.tips/creatingseries> and use the code listened in the promo coupon box for a 25% discount.

Here is another example of using a company credit card. A former Apple employee's fondness for Victoria's Secret merchandise led to her arrest and conviction in a \$243,000 embezzlement scheme, according to reports.

Authorities in New Jersey said Toni Ann Branca, 42, was sentenced to three years in a state prison. She had pleaded guilty in January to a second-degree theft by deception charge.

The former administrative assistant for Apple used a company credit card to make purchases at the lingerie retailer and at Gucci and Louis Vuitton shops, authorities said.

But it was the Victoria's Secret purchases that Apple discovered first, leading to her undoing.

Branca worked mostly from home, handling scheduling and travel arrangements for other Apple employees, and she was issued an American Express card for making purchases related to her job.

Investigators found that she submitted duplicate requests for reimbursement, to be paid straight to her bank account, and used the duplicate payments for her personal spending.

A review found that Branca racked up \$110,000 in retail spending and paid back \$95,000 prior to her sentencing.

“Branca went on a lavish shopping spree at the expense of her employer, but ultimately she bought herself a state prison term,” said Veronica Allende, director of the New Jersey Division of Criminal Justice. “Our financial crimes bureau will continue to uncover these fraud schemes and bring those responsible to justice.”

Public officials may be arrested for mishandling public funds. On October 4th, a former Northern California Mayor and a longtime associate were charged with embezzlement, money-laundering and conflict-of-interest.

The Stockton California Record reports former Stockton Mayor Anthony Silva and Sharon Shimas, who was his executive assistant while he held office from 2013 to 2016, were charged by San Joaquin County prosecutors.

The 43-year-old Silva was also charged with illegally possessing ammunition and obtaining a firearm. He was already facing six felony counts from an embezzlement case after a grand jury indicted him last year. Silva's attorney, Allen Sawyer, says his client will plead not guilty and "vigorously defend himself."

Shimas' attorney, Ken Rosenfeld, called the charges against the 76-year-old "egregious."

What's going on in Stockton? I found this story on the website of a criminal defense attorney.

A different woman who had been convicted on charges relating to embezzlement was sentenced to two years and eight months in a California women's prison. She was accused of falsification of corporate books and state income tax evasion, as she failed to report the embezzled income on her tax returns.

The 48-year-old woman worked as a bookkeeper for a Stockton company and was arrested in June 2017. She was accused of embezzling nearly \$500,000 over the nine years she worked at the corporation. She allegedly took the money from the company in a number of ways. She set up an electronic debit to pay her monthly home mortgage in addition to forging checks for personal expenses and creating electronic debits and drafts that actually covered her personal spending.

She pleaded guilty to the felony-level charges in late June 2017 and was sentenced in late January 2018. She was also ordered to pay restitution to her former employer, and this meant that her home was sold, and the proceeds transferred to the company. The titles to her car and a Harley-Davidson motorcycle was also transferred to the Stockton firm.

Speaking about the case, the district attorney in San Joaquin County said that it should serve as a reminder to companies to use accounting controls that can detect fraud, embezzlement and misuse of funds. Dishonesty insurance coverage can also provide protection for businesses subject to embezzlement.

Fraud and embezzlement cases can be further complicated if federal charges are pursued, which can be possible in situations when the case can be connected to federal programs or regulations or to interstate commerce.

As a side note, Stockton California is named after U.S. Senator Robert F. Stockton. I live in the Stockton New Jersey community named after the same man. Stockton, California was the first community in California to have a name not of Spanish or Native American origin.

What is the take home message for you as a business owner? I can sum it up in one phrase: pay attention to your books. Kelly Paxton gave some excellent advice on preventing embezzlement and on detecting it. Listen to it and absorb the lessons.

Be sure to get your copy today of **How to Manage Your LNC Business: Top Tips for Success**. Go to the link <http://LNC.tips/creatingseries> and use the code listened to get a 25% discount. That is all for today.

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