

The Legal Strategist

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TEXAS ESOTERIC FACTS

What should you do if you suspect that one of your partners or a co-owner is stealing money from the company? What proof are you required to obtain, and what course of action must you take to protect your interests? The first and most important thing to do is clear your mind and do your best to remove emotion from the equation for now. A mind filled with anger is distracted and cannot think clearly. What is outlined below is

Houston airport received many complaints about baggage wait times. In response, they moved baggage claim further away so that walk was longer than the wait. The number of complaints dropped.

The Feature Topic is a cursory review. If you would like more information on this, or any other topic previously covered in our newsletter, which can be viewed on [The Legal Strategist](#) tab of my web site, please contact my office at 713.526.1883.

Scott Barrett

FEATURE TOPIC: YOUR PARTNER IS STEALING FROM THE COMPANY—NOW WHAT?

Once you have become suspicious that there is financial monkey business going on in you company, and you are concerned that the lead monkey is your partner or co-owner, what do you do? The first step is to contact an experienced business and litigation attorney who can guide you through the process.

Obtain Genuine Evidence - The next step is to obtain real evidence that theft is occurring and to identify the person or persons involved. It is not prudent to simply accuse a partner or co-owner of stealing money from the business without solid evidence. There may have been a simple mistake, or an accounting error, or a missed entry in the books. You're looking for a pattern.

Place controls on all accounts, and track every amount going in and out. Require detailed receipts for every expenditure no matter how small or mundane. Receipts should be printed on the merchant's own receipt form or automated paper receipt, and should include a detail of all items purchased. Withdraws through an ATM from a company debit or credit card are a primary place to look. If your business uses a cash register, place a camera or multiple cameras on the drawer to identify whom, specifically, is taking money from the drawer.

What are the Legal Steps in Resolving This Dispute? - If your business associate is taking money under a business pretext and using it for personal reasons or diverting it to another venture this is "fraud." Your business partner lied, you believed and relied upon the lie and suffered losses or "damages" as a result of your business partner's deceit. Your associate may be guilty of "embezzlement", which is the theft of money or a business asset by a person in a position of trust within your company. Finally, your business partner has broken their "fiduciary duty" to protect the company in which they are a partner, co-owner or shareholder.

The criminal offenses of fraud and embezzlement are strong bargaining chips to recover the lost money or property, and remove the individual from the company. Your attorney will guide you through the process of whether or not to file criminal charges, and manage the negotiations with your business partner or their attorney. You are entitled to recover "civil" financial damages for the breach of fiduciary duty, as well as to recover the money or assets that were stolen. The breach of fiduciary duty on the part of the thief also put your company at risk, and the resulting damages to the company's performance and any financial impact on the performance of your business adds to the civil damages that can be recovered.

You Should Not Attempt to Manage This On Your Own - Proving that a business partner, co-owner or shareholder is stealing from the company is serious business. The stakes can be quite high, both in terms of the actual money or assets involved and the damage to your company and its performance. Each step in the process must be carefully planned and executed, and the advice of a seasoned and experienced business and litigation attorney will ensure that you've covered every base, while following all appropriate laws and procedures identified within your corporate documents. Your attorney will maximize the amount you are able to recover, and has the negotiation skills and leverage to successfully accomplish your goals for this situation.

If you would like more information on how to navigate the murky waters of partner theft of company property and how to deal with it, please contact [Scott Barrett](#) to set up a consultation.