

What To Do If You Find Yourself the Victim of Fraud/Embezzlement

Disclaimer concerning the Use of this Model Policy: This Model Policy is designed for local Associations of REALTORS® in Texas to use as a guide in the adoption of a Fraud Prevention Policy. Texas REALTORS® does not represent or warrant that this model document addresses all items that should be addressed in a fraud prevention policy or that compliance with this model document will eliminate any potential responsibility or liability by the association.

If you find yourself the victim of fraud, it is very important to know what to do:

1. **Investigate first**

Never accuse anyone of an impropriety until you know the facts and contact your CPA and local board attorney for advice and guidance. Also notify Texas REALTORS® and NAR of potential fraud/embezzlement.

If you have a problem, get your facts together and have your CPA confirm them objectively and then review the facts with your attorney **before** confronting the offending individual. Remember if you accuse someone of an impropriety and you're wrong—you'll find yourself and the board on the wrong side of a defamation lawsuit.

2. **Freeze all bank accounts**

The moment fraud is suspected, the board should take action by directing the bank to put a temporary hold on **all** bank accounts until the situation is resolved.

A clever thief could conceivably intentionally create suspicion that one account has been compromised, for example, the payroll account, and while attention is focused on that account, carry out another scheme.

3. **Call your insurance agency that handles your fidelity bond (employee dishonesty insurance policy)**

Unfortunately, many boards that have fidelity bonds have never read them! Make sure you contact your fidelity bond carrier **as soon as embezzlement is suspected!**

Often the policy states that they must be advised as soon as the fraud is suspected, a police report may be required, etc. **Don't unwittingly complicate the claim by not following the required procedures.**

4. **Take accurate, copious notes**

Remember to document every phase of the investigation with detailed and accurate notes, including dates, times and identified individuals, as these will be very important to your attorney in the event an incident leads to a trial.

5. **Protect the evidence**

As soon as fraud is suspected, remember to secure **all** original documents in a safe deposit box and work from copies. Remember original documents are often required as evidence in a trial.

6. **Confront the person after business hours**
Send all employees home with the exception of your IT manager before the confrontation to avoid a scene and unnecessary embarrassment.
7. **Be careful when confronting the person**
It's a fact that desperate people will take desperate action. If you feel there will be a problem, arrange to have a police officer present for protection.
8. **Have the IT manager change the offending individual's computer passwords while the confrontation is taking place**
If the computer passwords change is overlooked, it is possible the offending individual can access the computer from home and retaliate by deleting important files.
9. **When confronting the person, always have a witness**
Consider having your CPA and attorney in the room when you make the confrontation, but **always** have a witness in the room, **particularly** if you have a male vs. female situation to verify what transpired.
10. **Have a predetermined list of items to get from the individual before they leave the office**
In the stress of the moment, it would be understandable to forget to ask for:
 - Credit cards
 - Office keys
 - Company car keys
11. **On advice of counsel, either terminate the individual or put them on administrative leave**
Before deciding on a course of action, be certain to get legal advice to be certain you are on firm legal ground before terminating the person.
12. **On advice of counsel, get advice on how to relate the circumstances to staff and so forth**
Be sure you are advised on what is allowable to say with regard to relating the circumstances to avoid unnecessary lawsuits.
13. **Get legal advice on what is allowed to say and not say with regard to employment references**
Don't find yourself on the wrong side of a defamation lawsuit.
14. **And when it is all over, get your CPA in to review your procedures and improve your internal controls so that this won't happen again.**
Internal controls can always be improved and should be reviewed at least annually, but particularly if you have been found the victim.