

# Guard your assets

Protecting your company from white-collar crimes **Interviewed by Meredyth McKenzie**

**I**t may be hard to tell, but it's possible that there are criminals working right alongside you at your company.

While white-collar crimes stem from a variety of misconduct that occurs in a business setting, most crimes today are financial crimes, like fraud or the misappropriation of funds. Abuses often occur in areas of business that aren't adequately regulated.

White-collar crimes have received more attention during the recession because of major scandals taking place, the most prominent being the Bernard Madoff scandal. Plus, an incident can not only harm your company's financial standing but also its reputation.

"You don't want to be a victim of a financial crime, you don't want your employees embezzling funds, and you don't want to end up poor because you've been a victim of a white-collar crime," says Jerry Friedberg, senior attorney at Theodora Oringher Miller & Richman PC. "You also don't want to find yourself under investigation for having victimized someone else. If that happens, there can be a lot of repercussions for your business."

*Smart Business* spoke with Friedberg about how to prevent white-collar crimes and what to do if you're a victim.

## How can you prevent white-collar crimes and protect your company?

You need to instill an understanding in your employees that your business has high standards of integrity, and they need to act in accordance with these high standards, as well. This can be done through training and developing written policies and procedures emphasizing the importance of honesty and integrity. Having solid written policies and procedures in place can send the message that this is the kind of company that has zero tolerance for crime.

It's important to enforce those rules once you have them in place, even if it's painful at times. Often, people get in trouble because they're involved in the cover up rather than the underlying crime. You don't want to have a situation where a lower-level employee does something wrong and senior management feels the repercussions because they are too afraid of the consequences to make the proper disclosures.



**Jerry Friedberg**

Senior attorney

Theodora Oringher Miller & Richman PC

A good practice is to have somebody at a high level who follows the rules, regardless of the consequences, to police the company. Employees can report any information about potential improprieties to this person, who will have the authority to follow through on proper investigation and punishment of the issue and who will require that any necessary disclosures be made or monies refunded. That is the key to an effective prevention program.

## How do you educate your employees on white-collar crimes and the punishments if these crimes are committed?

You have to make sure they're honest and following the rules. You can have the rules posted and explain them to employees and make it clear that the company will not tolerate any violations. You can also repeat your training periodically and circulate the written policies throughout the office once a year as a reminder for employees. In appropriate cases, you can conduct internal audits. But the key is to have an environment where it's clear to everybody that you're not simply giving lip service to these rules, but that you will actually follow them.

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## What should you do if you're a victim of white-collar crime?

You need to preserve all the evidence, gather all the information and report it to the authorities. If you don't get a good response from one law enforcement agency, you can try to shop it to another, because some agencies don't have the resources to handle white-collar crimes. If that fails, you may be able to pursue a civil remedy. Then you have to decide whether or not to sue the people who have victimized you. While you may end up spending more on the litigation than you recover, it could send an important message that white-collar crimes will not be tolerated at your business.

## What are the consequences of not being diligent about preventive policies and procedures?

You'll run the risk of criminal or civil penalties for engaging in illegal conduct. If you're involved in illegal conduct and get caught, it can have a devastating effect on your business, regardless of whether you are ultimately convicted or not. It can affect the professional licenses you hold, the government's willingness to do business with you and your eligibility to be involved in government programs. Sometimes the government will withhold payments during a white-collar crime investigation, causing you to experience severe cash flow problems, even if the investigation ends in your favor. Also, if you submit false claims to the government, an employee could turn around and sue you under the whistleblower statutes, and you may be subject to treble damages and penalties.

It can also hurt your reputation if you get caught or engage in illegal activity. Arthur Andersen had a pristine reputation at one time, but that all changed after its involvement in the Enron scandal. You can develop a reputation for being clean or dirty, and a dirty reputation can cause a lot of problems. <<

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