Lawyers' Risk Management Newsletter

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# Lessons in financial controls for law firms

On May 6, 2020, Law.com published a story entitled "He's Been Everywhere, Man: IP Boutique Partner Allegedly Faked Trips to 43 Cities and Charged His Firm." The article exposes a travel expense fraud scheme that involved a Chicago law firm and one of its former partners, Thomas Wetterman. Mr. Wetterman cheated the firm out of USD 361,646.47 by submitting and obtaining reimbursement for 382 separate sham travel expense requests between 2015 and 2019. Unfortunately, this story is not unique or even particularly uncommon.

This story, and other incidents of similar ilk, demonstrate the importance of the adage "trust – but verify." The story exemplifies the fact that law firms often repose trust in their lawyers – and even in non-lawyer employees with roles involving access to the firm's finances – without having in place the appropriate controls to fulfill the firms' ethical and fiduciary obligations to "verify." The ethical duties relating to managing client funds are found in Rule of Professional Conduct ("RPC") 1.15, and the duty not to "engage in conduct involving dishonesty, fraud, deceit or misrepresentation" is found in RPC 8.4 (c). In addition, lawyers owe their firms, and their firms' clients, fiduciary duties to the same effect. Also important are RPC 5.1 and 5.3 – the duty of supervision.

It is not sufficient for a firm to place trust in its attorneys and staff, and thereby possibly enable them to steal or embezzle the firm's or its clients' funds, without having appropriate oversight policies and procedures in place. Here, the scheme was possible because the firm permitted its lawyers to submit travel expense claims for reimbursement without requiring any appropriate proof of the validity of the claims.

In order to comply with their ethical and fiduciary obligations, and to minimize the opportunity for this kind of wrongdoing, law firms need to put in place appropriate financial controls.

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There are well-recognized and easily implemented policies and procedures that law firms can and should implement in order to prevent – and hopefully deter – the kind of wrongdoing that occurred in this case and to safeguard their assets – and their reputation. Among the controls firms should consider are the following:

- Require proof of travel actually having taken place. For instance, because boarding passes can all too easily be printed before travel is canceled, where reimbursement is sought for airline travel require production of receipts for further travel expense or accommodation in the place and on the dates visited.
- Do not issue firm credit cards or cancel existing ones. The problem with these arrangements is that the firm ends up paying the bill in advance of being able to verify that the expense was valid and proper.
- Require the use of a single, approved travel agency for all client and firm related travel. This has the benefit of establishing uniformity, consistency, ease of communication and record-keeping throughout the firm.
- Conduct regular internal audits to ensure that whatever policies and procedures are in place are being scrupulously and uniformly followed throughout the firm.

Regrettably, Thomas Wettermann's case is not unusual. A strong internal control environment is not just a best practice but a way to protect the law firm, its clients and its employees. Although no set of policies and procedures can prevent fraud completely, putting in place appropriate financial controls will significantly reduce the opportunities for wrongdoing and will help to protect the assets of the firm, not least its good name. The policies and procedures described above are not a comprehensive list. Rather, firms should consult with their outside accountants and advisors on the policies, procedures and controls best suited to their own particular needs.

## Further information

If you would like further information on any issue raised in this update please contact:


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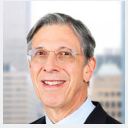

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