

# EMBEZZLEMENT

## IN THE PRACTICE

A cautionary tale.



BY JAMES C.  
LODEN, MD



**E**mbezzlement and mismanagement occur every day, whether you realize it or not. If you are lucky, they occur in the forms of time-clock theft, low productivity, or stolen office products or gift cards. Although problematic, none of these forms leads to financial ruin. Of course, embezzlement can be far more serious. In my case, it put me at the precipice of bankruptcy and nearly cost me everything I had worked 18 years to build.

### FIRST SIGNS

My story begins in 2013 when I became disenchanted with my CFO/administrator's performance. I observed poor adherence to benchmarks, an unwillingness to participate in benchmarking collaborations, a defiant emphasis on buying used equipment, and financial statements that appeared to include doctored numbers. I relieved this person of his position on a Friday afternoon. The following Friday, I received a phone call and learned that he had committed suicide.

Days afterward, I visited his family at his home and realized the house had been remodeled with the exact flooring, countertops, and cabinets used in our last office remodel. A forensic audit of my practice revealed extensive mismanagement and probable vendor and construction kickbacks. The audit also

found evidence of embezzlement of patient refunds. The auditors suspected that an unknown bank account existed under the company name to make these deposits, but nothing was found that could be prosecuted.

### END OF STORY, RIGHT? WRONG

After I promoted my COO to CEO, promoted my clinical director to COO, and hired a new accounting firm, the wheels really started to fall off the cart. In time, I realized that my deceased CFO/administrator had assembled a team with an elaborate, well-planned scheme to defraud me while still allowing me to earn a substantial income. The strategic plan was to keep me so busy in surgery that I had no time to manage the business.

The former CFO/administrator had hired both the COO who was now CEO and the practice's IT provider. This CEO had embezzled money through the use of credit cards since the first day of employment with the knowledge of the now-deceased CFO. The CEO stole more than US\$200,000 from the practice through executive bonuses. Another US\$250,000 was stolen through credit cards over a 2-year period. The IT provider, meanwhile, had charged exorbitant rates—sometimes twice the industry standard. Most galling was that poor

oversight by a large but incompetent accounting firm let this team of swindlers run up more than US\$2 million of accounts payable that were over 120 days overdue without the knowledge of anyone else in the practice!

How could this happen to a surgeon who was making great money and had been experiencing double-digit growth for a decade? If you talk to anyone who has been the victim of embezzlement, you will learn that the culprit is almost always someone who was highly trusted, someone who felt like a member of the family. Such was my experience. Con artists build trust before putting their plans into motion. The following is advice based on my experience.

### BACKGROUND CHECKS

I have learned to be skeptical of everyone's intentions and to defend myself by hiring a private investigator to perform a complex background check of anyone who will be a high-ranking employee or have access to money. All employees go through routine background checks in my practice. It is also imperative to be diligent in scrutinizing résumés or education transcripts and calling prior employers.

## BEWARE.

Some construction companies, ambulatory surgery centers, and used equipment dealers will give kickbacks to your second-in-command to direct decisions and purchases. **Be skeptical and never think of vendors as your friends.** If you notice that you are being advised to purchase or use a particular vendor and it does not make sense to you, understand that there is likely secondary gain involved.

If a potential employee asks you not to call a previous employer, I recommend calling anyway.

### FINANCIAL OVERSIGHT

Require the managing partner of your practice to schedule at least several hours per month to meet with an outside accountant to evaluate processes and monitor accounts receivable, accounts payable, credit cards, and billing benchmarks. Without benchmarks, you are operating blind, and this is a sign of incompetence or deliberate neglect. In either case, fire your accountant, controller, or CFO if you spot this trend.

Credit cards are easy to abuse. Anyone with a job title of COO, CFO, or CEO on a business card can open up a credit card in the name of your business. Your company banker will often help that person do it with the assumption that he or she is acting on behalf of your company. In my case, money was stolen through credit cards while my billing clerk and CFO were supposedly monitoring the purchases. This is why the managing partner must take the time to do spot-checks of credit card statements.

The vulnerability of patient refunds is too complex a topic for this article, but you should understand that smart

thieves with a background in accounting and billing can easily embezzle money through refunds. This form of theft is very difficult to catch.

### PURCHASE OF MAJOR OFFICE COMPONENTS

Like most physicians, I knew my practice was supposed to get three bids for every major new construction project or purchase. The problem was that I asked, "Which bid was the best?" I should have said, "Show me the bids." I was told that we had bids for the IT and soft costs for three new offices from multiple companies. Final research showed that my practice obtained only one bid, from our current IT provider, and presented this bid as the best. This bid was double the industry benchmarks. It may seem impossible to believe, but this poor bid process was orchestrated by my *new* team after the previous two practice leaders had been fired! In the end, we squandered more than US\$1 million dollars over 3 years to build 60,000 square feet of new commercial office space.

### CONTRACTS

My IT contract read that it superseded all other contracts and was unmodifiable in writing or any other form. That was completely untrue. By adding to an invoice of more than 30 pages a single line that stated, "US\$5,000 discount for a new 5-year contract," my IT provider duped my payables staff. The paid invoice constituted a new contract in the state of Tennessee, where I practice. In the end, going to mediation cost us US\$400,000 but saved us US\$1 million over honoring the alleged new 5-year contract. This event has led me to now operate under the assumption that there is no such thing as a contract in the state of Tennessee.

I learned the following lessons with regard to contracts:

- **No. 1: Never sign a multiyear contract;**
- **No. 2: Always have a 30- or 90-day out** for both parties;

- **No. 3: Assume every relationship may sour** and read the contract from the perspective of, "How do I get out of this if things go south?" and
- **No. 4: Don't sign if you don't have an out.** The courts and judges may not side with a wealthy doctor even if wrongdoing is obvious.

### ACCOUNTING

Most practices use what is termed *compilation-based accounting*. This means that the practice provides the numbers to the accountants and the accountants then package the numbers and put them in a binder for the practice administrator. The accounting firm is free of all legal ramifications, and the fine print says you cannot sue them. In other words, they cannot be held responsible for poor decisions, outcomes, or mismanagement on their watch. Although it is more expensive, you should consider audit-based accounting, or at least an audit every couple of years, to keep everyone aware of potential oversight.

### CONCLUSION

The past 5 years have been trying and have made me skeptical of the intentions of vendors, employees, and consultants. The good news is that my marriage and family survived these events. I learned that money and happiness are not correlated. I also learned that forgiveness and the ability to move on are good for the heart and soul. For the first time, I feel like a confident practice CEO who can be a better leader for the next 20 years if I am blessed with this time. ■

#### JAMES C. LODEN, MD

- President, Loden Vision Centers, Nashville, Tennessee
- Member, *CRST* Editorial Advisory Board
- lodenmd@lodenvision.com
- Financial disclosure: Consultant (Johnson & Johnson Vision, Lensar, Omeros)