

WARD'S Dealer Business

Crime and the Modern Dealership

By Lillie Guyer

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Tied to a battered economy, more dealer fraud and embezzlement cases are having their day in the sun, or in the cold light of courts. It's a burgeoning problem that many dealers as entrepreneurs never thought they would have.

"We fully anticipate an increase in litigation cases involving dealers defaulting on their loan obligations in a sour retail season," said Jim Foster, Akerman Senterfitt senior bankruptcy attorney in the law firm's Orlando, FL office.

"More troubling though, is the growing trend of dealer fraud instances across many mid-sized dealerships within the marine, furniture, automotive and electronics industries."

It isn't usually the dealer who's the bad guy. Indeed, it's most often a trusted employee who has access to the company coffers. Temptation, like crime, seems to grow greater, in a bad economy.

"In the majority of fraud and embezzlements, it appears they are committed by employees, not dealers," says **John Pico, president of Advising Automobile Dealers LLC in Denton, Texas**. Cases can involve controllers, accountants, finance and insurance managers, general managers and others.

"The problem is very pervasive," says Robert Sexton, former lead agent for fraud investigations, Colorado Bureau of Investigations and the Attorney General's office.

Fraud within the dealership almost always involves a trusted person in a position to control the dealership deposits, vehicles, warranty funds or payroll, he says.

Sexton now advises dealers on fraud issues, working with Pico's consultancy. Sexton and Pico have handled hundreds of dealer fraud and embezzlement cases nationwide.

"It is a particularly dastardly crime because it is committed by a person the dealer trusts. The problem is that most dealers believe, for a plethora of reasons, that it could never happen to them," Pico says.

Pico, for example, dealt with about six dealer cases recently.

"The two most recent California cases we had were a 20-year employee that was charged with taking over \$5 million and a 10-year employee who took over \$2 million," Pico said.

"To add insult to injury, in both instances the dealers had given the employees substantial Christmas bonuses. Those are additional reasons why many dealers take it personally and focus on retribution rather than restitution," Pico says.

In Redwood City, CA, a manager was convicted recently of embezzling about \$835,000 from a Lexus dealership. The manager allegedly wrote himself unauthorized checks and deposited funds into his own accounts. The employee admitted he wrote checks to himself over eight months to fund a gambling habit.



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Dealers, for the most part, don't want to discuss fraud or embezzlement cases.

Tracking the real numbers is not easy, since much dealership crime is underreported.

A National Automobile Dealers Assn. survey indicates 20% of dealerships reported being scammed in the last five years and 18% reported employee embezzlement in the period. However of 7,000 new car dealer members surveyed, a scant 565 members returned the surveys, NADA says.

Paul Taylor, NADA chief economist, says that compares to 24% employee embezzlement of funds in a 2000 survey, a similar period of deep recession.

That survey also looked at a five-year cycle.

Many thefts at dealerships are committed by criminals posing as customers and the like.

But the more grievous crime in dealers' minds is employee theft, Taylor says. "Probably more irritating and frustrating to dealers is crime from within the dealership. Not surprisingly, large dealerships were more apt to experience embezzlement."

Dealers prosecuted in 50% of the cases, he says.

Most dealers say their employees are honest and conscientious. But how can someone go from employee to criminal? Here's one typical scenario.

An employee develops an addiction to gambling, drugs or even compulsive shopping. Money troubles pile up. Say that person has access to the company coffers at a particularly bad time in life and can't resist temptation.

Sexton advises dealers to "look procedurally at how they do things and follow the trail of money, titles, parts, inventory, floor planning — everything concerning fiscal operations.

So does that mean casting all employees in money control roles under the microscope? In short, yes.

Pico recommends that dealers take precautions and have good check and balance systems in place.

"Controls should be placed on all positions where fraud and embezzlement are possible because you never want to tempt anyone or let them think there is an opportunity to steal without getting caught," he says.

It's not always necessary to do expensive full audits, but having outside experts look at internal systems can only benefit dealers.

Mistakes can be costly.

In one case, a dealer's comptroller devised a fairly elaborate scheme to remove checks and cash from company coffers, or deposits, nearly forcing a dealership into bankruptcy.

In another case, a 15-year accounting employee embezzled \$200,000 through manipulation of bank deposits and personal insurance policy payments then falsifying deposit slips to reflect the amounts after her embezzlement.

Using a similar ruse, a controller swindled millions from a California dealership.