

# IS THERE A SHYSTER IN THE STATION?

CBAA Conference Workshop 20 November 2009

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Wikipedia: A **shyster** is someone who acts in a disreputable, unethical, or unscrupulous way, especially in the practice of law and politics. It is a slang word. The word is derived from the German verb *scheissen*, “to defecate” and the English suffix – *ster*, “one who does”.

The Association of Certified Fraud Examiners (ACFE) defines **occupational fraud** as “The use of one’s occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization’s resources or assets.”

## BACKGROUND

According to a 2008 study by the Association of Certified Fraud Examiners (ACFE) on fraud in not for profit organisations in the United States:

- 7% of revenue will be lost as a result of fraud
- 89% of occupational fraud involve asset misappropriations – cash is the most targeted asset
- Most fraud is committed by the accounting department or upper management
- 81% of the fraudsters were first time offenders
- Methods of asset fraud in not for profits (2006 study) were: unauthorised benefit, expense reimbursements, billing, cheque tampering, skimming, cash theft, non-cash theft, payroll, fraudulent statements and wire transfers
- The most commonly cited “red flags” – that is, behavioural traits which warned others, were people living beyond their means or experiencing financial difficulties at the time
- Most common methods for detecting fraud were: tip from an employee, customer, vendor or anonymous source following an accident, internal audit, internal controls or external audit
- The lack of adequate internal controls was most commonly cited as the factor that allowed the fraud to occur

Internal frauds can be broken down into two separate categories: asset misappropriations and fraudulent financial reporting. Asset misappropriations are the most common. Some of the schemes include:

- Skimming – theft of cash before the funds have been recorded on the books.
- Theft of donated merchandise
- Credit card abuse
- Fictitious vendor schemes
- Ghost employees
- Overstatement of hours worked
- Fictitious expenditures
- Personal use of organisation’s assets and other resources

According to the Australian BDO not-for-profit fraud survey 2008:

- 16% of respondents had suffered fraud in the past two years
- Cash theft (33%) and kickbacks/bribery (12%) were the most common types of fraud
- The typical fraudster is male/female in his/her forties and is a paid non-accounting employee
- The average duration of the fraud was only 14 months
- Only 8% of fraud was committed by unpaid volunteers

- Internal controls are the most successful method of discovering fraud (38% discovered)
- The most common motivator for fraud was financial problems and pressures
- The majority of respondents did not report fraud to the Police and 20% did not terminate the employment of the person who committed the fraud

#### **THE FRAUD TRIANGLE:**

1. **Perceived pressures:** provides a motivation to commit fraud eg: own financial pressures, believe they are “under paid”, “just borrowing” funds or to see if they can get away with it.
2. **Opportunity:** ineffective controls, the absence of them all together or the ability for management to override controls provide an opportunity for fraud to be undertaken
3. **Rationalisation:** Those who undertake fraudulent act rationalize it as being consistent with their personal code of ethics. Or they can rationalise the act in some way – ie: “they owe me”.

#### **SOME RELEVANT POLICIES FOR COMMUNITY STATIONS:**

1. Code of Ethics (or Conduct)
2. Governance
3. Financial delegations
4. Occupational Health and Safety
5. Privacy
6. Conflict of Interest and/or Disclosures
7. Employment of Station Manager
8. Financial Risk Management

#### **FOR MORE INFORMATION:**

From an Australian accounting firm, BDO Kendalls the 96 page BDO not-for-profit fraud survey report:  
[http://www.bdo.com.au/services/forensic-services/resources/not-for-profit\\_fraud\\_survey\\_2008](http://www.bdo.com.au/services/forensic-services/resources/not-for-profit_fraud_survey_2008)

From an accounting firm in the United States, a 46 page booklet (including checklists, sample policies etc) about preventing and detecting fraud in not for profit organisations:  
<http://www.kellerandowens.com/resources/FraudBooklet.pdf>

For sample policy templates that you can adapt for your station:  
[www.ourcommunity.com.au](http://www.ourcommunity.com.au)

Then follow these steps: Community Resources/05 Boards/Policy Bank

#### **TO DEVELOP YOUR SKILLS:**

The CBAA’s RTO offers training in management for community radio, some of the courses which would be valuable to Boards and Managers in managing risks are:

- Financial Management
- Governance
- Station Administration

Contact the CBAA Training Manager on 02 93102999 or via email: [training@cbaa.org.au](mailto:training@cbaa.org.au) for information on courses and an expression of interest form.

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Workshop Participants Small Group Notes & Report Back

## 1. Identifiers – “Red Flags” to be alert for:

### People

- Unhappy volunteers or staff in positions of power, access to \$ and decision making or deal making (signs of discontent)
- Volunteers or staff with own financial problems (gambling, addiction, large personal debt etc)
- Divide and conquer tactics
- Isolate others, especially people with knowledge and experience
- Keeps secrets – doesn't share info or contacts
- Not take personal responsibility, makes excuses, blames others, fobbing off of questions
- Discourages or disengages member and volunteer engagement on committees
- President or Manager who takes absolute control
- Is a “gonna” and does not deliver (ie: sponsorship income, savings etc)
- Big on ideas, poor on action and performance – grandiose schemes which don't come off
- Bullying, harassment, physical violence or intimidation
- Nepotism, dictatorship
- Abuse of privileges
- Failure to do necessary tasks, obvious issues ignored
- Absenteeism (of staff or key volunteers), lots of unexplained personal time in work hours
- Losing members
- Re-directing station property (ie: CD's via mail) to own address and collection
- Micro management of others
- Unskilled or unassertive Board members – who may let things slide through ignorance or fear

### Systems issues to look out for

- Single signatory on bank account, cheque book etc
- No audited financial statements
- Large expense claims
- Poor quality financial reports or budgets
- Sole control of electronic banking
- Strange expenses on credit card bills – have checks and balances
- No middle authoriser between purchaser and authoriser
- Empty petty cash tin
- No receipts or invoices
- No Treasurers Report
- Missing cheque book or other records
- Contra abuse – ie: individual rather than the station gets the benefit of the contra
- Vote trading
- Lack of consultation or discussion on key decision making
- Poor reporting to the Board

## 2. Problems - the impact of the shyster on the station

- Lose volunteer and staff commitment, morale and enthusiasm
- Lack of security, safety or trust in the organisation
- Legal and compliance risks – licence, contractual, OHS etc
- Lose community support – donations, events, prizes etc
- Lose sponsors
- Lose good name and reputation – hard to earn and harder to win back
- Loss of funds and assets
- Debt
- Risk of becoming insolvent and going in to administration
- Distrust between members, volunteers, staff
- Gossip
- Loss of skilled volunteers and Board members
- Difficulty in finding human resources to replace those who leave
- Loss of listeners
- Loss of corporate or organisational memory & knowledge

## 3. `

### Station systems and processes to avoid the problem - Prevention

- Recruit well – volunteers and staff
- Have an independent auditor do annual audits
- Thorough Board and staff induction which explains roles, responsibilities, authorities, governance, legal, compliance and staff management
- Devise and implement a performance review and management process for the Station Manager
- Institute checks and balances for all operations which involve risk
- Use timesheets for staff – ensure work can be accounted for
- Understand and reference your constitution – know your responsibilities and rights
- Have clear, fair and open conflict of interest obligations and processes
- Disclosure procedures – ie : to disclose when you have earned money etc
- Train staff and Boards – so they understand their responsibilities and have the skills to meet them – CBAA RTO Management training
- Ensure the organisation has a paper trail
- Clear job descriptions for all – which outline rights and responsibilities
- Instill an attitude of professionalism and pride in your work
- Regular audit of assets
- Do background checks on potential employees
- Have policies (inform people of them and use them) re:
  - Various Financial Control Mechanisms such as: fraud risk management, reimbursement of expenses, authority to sign cheques, approve purchasing, access to electronic banking, use of credit card, use of facilities and equipment.
  - Various Financial Management activities: budgeting, financial reporting to the Board, sponsorship, fundraising, annual audit etc
  - Have a Code of Ethics, Conflict of Interest, Staff recruitment and induction, Board induction, bullying and harassment policies.

### Strategies to assist after discovery - Cure

- Get audited and get the finances sorted – know where you stand
- Consider legal advice and legal action against the shyster
- Communicate with your creditors – if you owe others money, talk to them about payment plans that are manageable for you
- Explain the situation and apologise (from the organisation) to relevant people - community, sponsors, volunteers, staff etc
- PR campaign to win back the stations good name
- Seek explanations, dig and discover what really happened and be decisive on action
- Ensure transparency and clear guidelines for Boards
- Inform the membership of what happened
- Be sure not to defame anyone in the process of explaining what happened
- Work on team building
- Consult independent body for advise
- Be ethical in how you handle the issue