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A co-op or condo board's worst nightmare is to learn that their corporate funds have been stolen, transferred, or have somehow disappeared. What are some common scenarios where this might happen?

RADETSKY: There are three common ones. The first is funds being stolen through the commingling of accounts and sometimes through false sets of books. The second is contractors who are somehow affiliated with the super or someone in management, and money is going into phantom repairs. Then there are kickbacks, where condos and co-ops are overpaying for work because their agent or super or someone is taking a chunk of the cost.

What kind of preventive action can boards take?

RADETSKY: The first step is with their management company. Boards need to be cognizant of the financial functions — who's permitted to access accounts and sign checks, in what amounts, and whether the person who signs the checks is also the one who reconciles bank statements every month. They should be different people. Also, the

board should insist that their management company keep a separate account that is specific to their building.

What about the procedures for check-writing and for electronic transfers?

RADETSKY: The board should have signatories over certain thresholds and over their reserve funds. There should be certain approved recipients of electronic transfers for repetitive payments, such as insurance and real estate taxes. Vendors should also be approved, which means the board should monitor the contractors the managing agent uses and make sure there's a competitive bidding process.

JAROSLAW: I would also recommend having an auditor do spot-checking. For example, if there's a large amount of work being done, you want an auditor to make sure the work that's being billed is actually performed. They can also check to see if the bidding process is truly competitive. When it's rigged, you'll see a pattern of very similar high bids and the same group of contractors always coming in with a low bid. You need a forensic auditor to do this, not your building's accountant.

When a board suspects that something is happening with their funds, what should be their first step?

RADETSKY: The first thing is to immediately lock down the financial accounts and stop the flow of funds. Call your financial institutions and make it clear that there is suspected fraud, and work with them to put a system in place where transactions cannot go through unless they're authorized.

Let's say you become suspicious of your management company, whom you hired and trust. Do you call the bank before telling them?

RADETSKY: Yes. And I would call your insurance carrier the very same day, because they may be able to cover the losses as well as the cost of investigating and determining the losses, which includes hiring an attorney who works with a forensic accounting company.

Why do you need an attorney?

RADETSKY: With an attorney, the co-op or condo's financial information stays confidential, since it's protected under attorney-client privilege. If the suspected fraud is in fact real, you may be facing civil litigation to obtain recovery of the stolen funds or a criminal investigation in cases of severe theft. If a board hires a forensic firm directly, without going through an attorney, all the information flowing between you and the accounting company is subject to discovery.

Which means what exactly?

RADETSKY: The information will be exposed to all parties, including the defendant in a criminal case. It's possible in both civil and criminal litigation to get a protective order, but all that means is that your financial information won't be put online and made public. The prosecution, the defense attorney, and the accused will still have access to your confidential financial information.

So what is the takeaway for boards?

RADETSKY: You want very stringent compliance programs in place, including spot checks and audits. You want to have fidelity insurance to protect your co-op or condo from employee theft.

JAROSLAW: But even with the best preventive measures, you must be mindful that things can go wrong. When a problem happens, act immediately. ■



Lisa Radetsky (left) and Ilene Jaroslaw (below)

