

## Employee Benefit Plan Fraud Examples

The following summary of actual fraud cases was compiled from submissions by auditor of employee benefit plans. The fraud cases are grouped in the following categories:

1. Distributions
2. Expenses/forfeitures
3. Participant loans
4. Eligibility
5. Contributions
6. Investments
7. Others

### Distributions

1. A husband and wife (both employees of the plan sponsor) schemed to falsify doctor's records to receive hardship distributions. The fraud was found by the plan sponsor. The amount was not material to plan. Both employees were terminated.
2. An HR manager requested distributions for terminated employees that had been gone from the company for two or more years. The HR manager was successful three times for over \$10,000 in funds. The fraud was discovered when a bank refused to direct the deposit due to the deposit name and the account holder's name being different.
3. A pensioner's benefit checks were fraudulently endorsed and cashed by a relative after receiving no response to attempted contact. The pension plan discovered the fraud through periodic death audits. The matter was referred to the plan's attorney and appropriate law enforcement officials.
4. A bank custodian employee skimmed money from distributions. The employee was able to cover the shortfall by having the ability to respond to client questions and transfer amounts between client accounts.
5. Claim checks for a health and welfare were diverted and used to create a fraudulent check that was used to buy a car. The fraud was discovered by the TPA who processed payments when performing bank reconciliations.
6. A bookkeeper made checks payable to herself and modified the bank statements to exclude cancelled checks. The bank cashed the check. The fake pensioner check was found by the plan while reconciling the account. The auditor found the fraud during confirmation of bank balances.
7. A plan administrator's brother with an addiction obtained a oxycontin prescription from a doctor 75 miles from his home. Eight different "original doctor visits" were submitted for reimbursement in one year totaling \$17,000. The fraud was caught by mining data.
8. A defined contribution severance plan's employee was created fictitious participants in the system and cut benefit checks. Fraud was caught at the check cashing facility. This happened between

audit year ends, but most likely would have been caught through the reconciliation of net assets available for benefits to participant accounts.

9. A payroll supervisor requested distribution checks for former employees who had been laid off and requested the checks be sent to her to distribute with final payroll checks to the employees. The payroll supervisor then deposited these funds in her own savings account. \$250,000 was restored to the plan.

### **Expenses/forfeitures**

10. A plan sponsor did not allocate plan expenses to highly compensated participants on the allocation schedule on purpose.
11. A plan employee submitted requests to the custodian to pay fictitious vendors. Authorized direction letters were forged and undetectable by the custodian. The employee directed the custodian to opt out of the option for a recorded call back before releasing payments.
12. A plan administrator used forfeitures to pay personal credit card balances.
13. A defined benefit plan administrator paid himself by setting fake "doing business as" (DBA's) and approving the invoices. The plan sponsored was by a company already in bankruptcy. There was no oversight on the payment of expenses.
14. The plan was charged and paid for the FAS 87/132/158 calculations in addition to the FAS 35 calculations on several occasions for a number of different plans.
15. Employee obtained two sets of checks, originals through the bank and identical checks through a printing company. The employee would use Photoshop invoices and get duplicate checks signed, wrote real check to herself and Photoshopped other checks (front and back) from real checks and other checks.
16. A plan paid for recordkeeper services and the custodian also paid for the recordkeeper services as an indirect payment. No disclosure was made by the custodian who saw both payments being made. The trustees sued both the recordkeeper and the custodian.
17. An employee of the benefits group fraudulently obtained checks from the trustee, endorsed the checks and then deposited them in his wife's company's bank account who also was a vendor of the company. The fraud was discovered when the service provider was terminated and the service provider did a "true up" of the account resulting in unpaid invoices. The employee was fired and barred from ever working with benefit plan monies in the future. The amount was immaterial to the plan but was still a prohibited transaction.
18. A plan sponsor had been charging fees for claims processing over and above the cost of service. The plan sponsor reimbursed the plan for such excessive fees in the amount of \$1,000,00 plus interest.

### **Participant loans**

19. An HR employee figured out how to process loans against participant's accounts. To cover it up, she manually prepared annual participant statements to hide the loans. The plan used a small

TPA that sent the participant statements to the sponsor for mailing. There were no controls to ensure the statements were private and on approving loans.

20. An employee in the benefits department who prepared the wire submission diverted “reverse loan payments” to their paycheck. The employee was caught when the payroll supervisor noticed the individual’s amount of reverse loan repayments exceeded their salary. The plan sponsor had inadequate controls over payroll.
21. A secretary in the plan sponsor’s payroll department was able to convince the outside payroll service that she was allowed to suspend her 401(k) loan payments. This was unknown to her employer and the plan administrator. This was discovered during the annual audit at which time the plan sponsor and employer were notified.
22. A controller wrote bogus loan checks on behalf of employees; completed bogus promissory notes and cashed them and used the dollars for his own personal account. The controller was in charge of the benefit plan, which included the approval and check writing process. The company also did all of the recordkeeping duties and the loans were not reported on participant statements.
23. A company president borrowed money from the plan to finance his new home in the amount of \$13,000,000. Although the interest rate was well above market the transactions was prohibited under ERISA.

## **Eligibility**

24. A person was offered a job but never actually started the job. The plan sponsor entered the person as an employee into the HR system and enrolled the person in the plan and then started issuing paychecks with deductions for contributions to the plan. This went on for three years until the employee running the scam requested a distribution at which time the fraud was discovered.
25. A Taft-Hartley health and welfare plan (fully self-funded) had an organized attempt by individuals “creating” new participants through fraudulent birth and marriage documents.
26. A trustee of small plan created a fictitious employee in the census data and made employer contributions. The trustee then took out loans against the balance.
27. An HR director at a participating employer misrepresented dates of hire to the multiemployer pension fund so that employees would qualify for past service for which they were not eligible to receive.
28. A fictitious employee file created by an HR department employee received paychecks and small employer profit sharing contributions. The fraud was discovered during the audit when testing new hire eligibility.
29. A union business manager provided benefit relief to certain contractors in exchange for promises of employment for members.
30. A lack of segregation of duties led to creation of a fictitious employee. Since no other party was involved in the procedure the fraud went undetected for a while.

31. A participant faked his death to get money out of the plan.

## **Contributions**

32. An HR department employee, who also assisted with payroll, diverted both payroll taxes and plan contributions into their personal account for six months and then left the country. This employee also had responsibility to reconcile payroll bank accounts.
33. An HR director made changes to the employer contributions that were to be allocated to the individual participants before submitting the tape to the TPA. He moved thousands of dollars belonging to other participants to his personal account. He made sure the contributions he moved to his account did not exceed the annual contribution limit. He was caught when an employee noticed their employer contributions on their statement did not match their Quicken records.
34. A company failed to remit all employee deferrals (\$350,000) for a period of time. The company was having financial difficulties and ultimately went bankrupt.
35. A portion of participants' and sponsor's contributions were forwarded to "other funds" yielding a fixed guaranteed return. "Other funds" turned out to be a trading account under the name of the asset manager; who died and left almost no assets to cover the "other funds" investments.
36. An employee of a TPA with a "no cash" policy for employee self pay premiums accepted cash from one elderly couple who visited the office monthly. When the employee entered the couple's eligibility she also had to enter the receipt of funds. If she reversed the transaction, eligibility would be lost and the couple would not have coverage. The employee pocketed the cash and went through the computer "back door" and voided the deposit and left eligibility alone. The employee eventually was caught when the elderly couple came in during the employee's vacation and tried to pay their premium in cash.
37. A controller was making his company profit sharing contribution from corporate funds. The fraud was discovered when the plan was audited (participant count exceeded 110 in the current year) and the controller could not cover his tracks fast enough.
38. Company owners improperly withheld employee health contributions and not paying employee medical claims. The owners also did not remit retirement contributions and loan repayments, and did not timely remit 401(k) plan participant contributions and loan repayments.

## **Investments**

39. A plan administrator overrode the system to redirect all investment earnings for company Fund X into their account balance. The fraud was found during an audit when performing analytical review at the participant level. Other participants showed a significantly lower rate of return on Company Fund X.
40. A bank custodian employee took securities out of participant accounts and adjusted reports so that the securities still appeared on participant statements.
41. An outside investment manager for a defined benefit plan reported investments and investment gains that did not exist. The fraud took 6 months to discover.

## Other

42. A TPA employee diverted monies from several plans to relatives and friends. Some amounts were greater than \$100,000. Most of the plans had fewer than 100 participants and did not obtain an audit. The employee was alleged to have an addiction and would disappear for a day or two each month.
43. An outside CPA was appointed as the trustee of small profit sharing plan. After many years, he began stealing plan assets (\$700,000 stolen). There were no controls and no segregation of duties. The bank alerted the plan sponsor. The plan was not audited as it only had 10 participants and there was no ERISA fidelity bond.
44. A bank trustee stole money from the retirement plan of a plan that was winding down. The plan sponsor was no longer in business because of business failure. There was nobody to provide oversight of the trustee.
45. A controller of sponsor was also the plan administrator which managed the plan's investments in house. The controller borrowed funds from the plan to cover the company's cash flow needs.
46. A director of plan administrator's defined benefit plan embezzled approximately \$3 million dollars from the plan over a period of 4-6 years. The director used \$2 million to pay bogus expenses to bogus companies he created. The expenses were recorded as miscellaneous plan expenses. The money eventually flowed to the director. The plan has \$1 billion in assets and the amount taken was under the auditor's materiality level. The fraud was caught by the DOL. The director was found guilty and sentence to jail.

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