

10 Ways Orange County Businesses Get Ripped Off Year After Year

Private investigator and former federal agent Thomas G. Martin talks about the common scams facing OC businesses

There are only a handful of common scams. For the last 40 years, as both a former federal agent and a professional private investigator, I've seen scam artists put them together in creative ways and drain profits from Orange County businesses.

Here are some of the most common cases my private investigation firm sees every single year. While most of these problems can be avoided or circumvented altogether, management is usually unaware that these are actually happening within their company.

10. Employees stealing time.

A few weeks ago, we had a case where there ended up being "phantom" employees – fake employees that were created by a manager who was issuing checks and then cashing them himself. Regardless of the company, it's extremely common for us to find employees who have someone else sign in for them or punch their time cards, take extended breaks, or come in late and leave early. This is a serious concern: If you have 100 employees who steal five hours a week at \$25/hour, you've lost \$650,000 for the year. Again, this happens all the time.

9. Employees stealing product.

A few years back, a local executive came to us for help. He had great sales, but his profit margin was so low that it just didn't make sense. Within a few hours, our investigators found that nearly all of his 45 employees were stealing products from the company. It was devastating to his company at the time as he had to fire nearly his entire workforce. We ended up helping him with measures to reduce employee theft in the future. Today, he has over 700 employees and he's doing just fine.

8. Employees stealing money.

A hospital recently hired us to perform a theft investigation involving a fraudulent order for \$3 million worth of computers. We ended up finding the money in a bank in Curacao and retrieving the money for the client. That's kind of a high-end case. It's more common for us to see employees who have access to cash and checkbooks and feel entitled to steal because they haven't received a raise, have had their benefits cut or didn't get a bonus.

7. Hidden audio bugs and video cameras.

Last month we discovered an audio bug in a local boardroom, and the CEO was so shocked that his company was at the level where something like this would happen. The fact is, when we sweep a business or an executive's home, we recover a device or camera about 18 percent of the time. That is higher than it's ever been, because there are hundreds of different types of these devices available on the Internet. They only get smaller, cheaper

and harder to find – and we have to continually reinvest in the latest detection equipment.

6. Cheating executives who put the company at risk.

We had a case where the chairman of the board of a large corporation contacted us because the president, who was married, was having an affair with a subordinate. If the affair became public, this obviously put the company at risk of legal action because in the OC courts, cases like this usually settle for hundreds of thousands of dollars, if not millions. Then there's the bad publicity. We ended up having to do a multiple-days surveillance to provide evidence of the affair to the board, who then retained us to manage the termination process for both employees.

5. Fraudulent workers' compensation claims.

We had a case where one of our investigators was performing surveillance on a local corporate executive who was awarded workers' comp. Our investigator followed him to LAX and had to make an on-the-spot decision to buy a plane ticket to tail the executive to Maui. We caught the executive playing nine holes of golf. Companies often don't bother to check if employee injuries are, in fact, real. Most of the time they are, but when they aren't, it sends a clear message to the rest of the employees that this type of dishonesty will not be tolerated.

4. People and employees with a secret past.

Background checks are so inexpensive, I wonder why more people don't get them done. I remember meeting with a local

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Thomas Martin

Thomas Martin is the president of Martin Investigative Services Inc. in Newport Beach, Calif. A former supervisory federal agent, Martin manages a corporate security and private investigation firm, which operates a network of former DEA, FBI, IRS and Secret Service agents. For more information, please visit www.martinpi.com or call 800.577.1080.



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Immigration Law: EB-5 Investors Create Jobs and Help Stimulate US Economy; USCIS Adds Support

by David Hirson, Partner, and Katie Wu, Legal Intern, Fragomen, Del Rey, Bernsen & Loewy LLP

Congress established the EB-5 Program in 1990 to bring new investment capital into the country and create new jobs for U.S. workers. The effects of the EB-5 Program have proven to be far-reaching in helping to stimulate the economy through its creation of new jobs spanning multiple industries, from hotels to fast food franchises, and the indirect contributions to our nation's GDP and tax revenues as individual investors come to the U.S., purchasing expensive real estate to live in, automobiles, and helping to boost our overall economy. Thus far, the Program has created approximately over 50,000 new jobs and contributed \$6.8 billion in EB-5 investments.

USCIS' May 30, 2013 EB-5 Adjudications Policy Memorandum

On May 30, 2013, United States Citizenship and Immigration Services ("USCIS") issued its long-awaited EB-5 Adjudications Policy Memorandum, helping to provide clarity on many long-standing issues. Some notable highlights include:

- ▶ **Bridge Financing** – Developer or the principal of the new commercial enterprise may now utilize bridge financing prior to receipt of EB-5 capital and may still receive credit for job creation provided that the EB-5 capital subsequently replaces this temporary financing;
- ▶ **Regional Center Amendments** – Regional centers may, but are not required to, seek re-approval if its geographic boundaries, industries of focus, business plans, or economic methodologies change;
- ▶ **Form I-829 Petition to Remove Condition** – Jobs created *within a year of the two-year anniversary* of the removal of conditional residence may now generally be considered to be created "within a reasonable time;"
- ▶ **Material Change** – Investors are now allowed to explain the material changes in a business plan for an investment into a project upon filing the I-829 Petition, where as before, a material change resulted in the denial of the application;
- ▶ **Evidentiary Standard** – USCIS reiterates numerous times that the standard is the **preponderance of evidence**: Evidence is credible if it is shown to be more likely than not.

What does this all mean?

In theory, the 5/30 Memo provides a breath of fresh air as the policies set forth are more aligned with real world business practices. In reality, it has not proven to be such smooth sailing. USCIS seems to be utilizing such strict standards for adjudications under the guise of preponderance of evidence, giving investors pause to invest. The recent crackdown by the U.S. Securities and Exchange Commission on fraudulent securities offerings made through the EB-5 Program has further created a chilling effect on investors worldwide.

While the Comprehensive Immigration Reform ("CIR") Bill, if passed, will probably make the Program even more investor-friendly, House Speaker, John Boehner, stated on Nov. 13, 2013, that the House will not approve the CIR Bill. Nevertheless, with USCIS' California Service Center's EB-5 Division soon to be moved to Washington DC, it is hopeful that the processing times for petitions will speed up.

With individuals from all around the world clamoring to come to the U.S., the EB-5 Program looks to have a bright future.

David Hirson

David Hirson is a partner at the global immigration law firm of Fragomen, Del Rey, Bernsen & Loewy LLP, which is recognized as the leading global immigration service provider. He has been certified as a specialist in Immigration and Nationality Law by the State Bar of California, Board of Legal Specialization for 20 years. Immigration law is not just a practice area within the firm – it's the firm's only practice. In 2012, Hirson's office was selected as the EB-5 Immigration Law Firm of the year. Contact Hirson at dhirson@fragomen.com or 949.660.3504



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businesswoman who was dating a guy who claimed to be a Navy SEAL. Of course he wasn't, and we proved that. Then, a few years back there was a televised political debate where the candidate basically said, "Catch me if you can." So the other side called his bluff and hired us for the due diligence. We found he didn't even live in the district where he was running for office, and he was having an affair to boot. Before you hire key personnel, just do a simple background check so you don't end up hiring someone who has been convicted of a horrific crime.

3. Improper security: procedures, systems and personnel

A Newport Beach attorney contacted us on behalf of one of his clients, a beer manufacturer. We quickly discovered the problem, which was basically the same story of missing inventory and thieving employees. However, this time there was a notable lack of comprehensive security procedures that were necessary for a company of their size. They had a security system, but the same code was given out to multiple people. They only had a couple of video cameras. Staff members and janitorial staff didn't have background checks performed. Most critically to this case, the shipping and receiving system was full of holes.

2. Not listening to the professionals you hire.

It's frustrating to me when a client goes through the time and expense of hiring the best corporate legal counsel and private investigators that money can buy, then they choose to not actually listen to what we tell them. At times, it costs them millions of dollars or even their freedom. Often times with celebrities and larger-than-life corporate figures, the ego comes into play – and all the instructions, advice and safeguards we supply go out the window. It's a shame.

1. Unnecessarily hiring an undercover employee.

A few years ago we were hired by a local soda manufacturer to investigate why their numbers weren't adding up. Their management wanted us to put an undercover agent in their company to see if any employees were stealing. This approach is a waste of money and time, and if a private investigator ever actually recommends this to your company – run. We ended up having a couple of our guys come in to interview employees and ask the right questions. The truth is, once you get one rat, they all start to jump ship. In a few hours, we discovered that four employees were stealing pallets of soda and selling them at the swap meet.

All 10 of these issues are easily fixed if you hire the right people. You can find my firm at www.martinpi.com. We never charge for a consultation, and any private investigator worth his or her salt shouldn't charge for this. There are only a few great private investigative firms in Southern California, so if you don't go with us, do your homework, interview potential candidates, then sit back and watch your profits and morale increase.