

# MMTCTA

## Fraud Presentation



### **About RHR Smith & Company:**

**RHR does approx 125 of Maine's 500  
Municipalities**

**In the past year and half RHR has  
Investigated 25+ cases of Fraud or  
Abuse**



# Definition of Fraud

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**Fraud** is an intentional deception made for personal gain

# Types of Fraud

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- ❑ Mistatements arising from fraudulent financial reporting.
- ❑ Mistatements arising from misappropriation of assets.

# Fraudster Statistics

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- ❑ Most fraudsters are middle class, white males with a social status.
- ❑ Behavior is learned.
- ❑ Social Status is important to fraudsters
- ❑ About 1 in 5 receive prison time.

# Having Said That

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- Out of 25 investigations 3 of the suspects were male (12%)

# Internal Controls & Fraud

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## 5 Components of Internal Controls

- 1) Control Environment
- 2) Risk Assessment
- 3) Control Activities
- 4) Information & Communication
- 5) Monitoring

# Levels of Responsibility

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- That percentage represents 20% up front of RHR client population
- Apply that to all Maine Municipalities annually, it approximates 100 Communities with a poor choice being committed currently

## **Auditors Assurances:**

### **3) Auditor's Procedures—General (Taken from a standard engagement letter)**

**“An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity.”**

# Types of Fraud or Mismanagement:

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- **Monetary Theft (Town Office, Rec, Transfer Station, Rescue)**
- **Credit Card for Personal Use**
- **Use of Postage Meter For Personal**
- **Cell Phone Abuse for Personal**
- **Use of Inventoried Gasoline**
- **Personal Use of Government Credit Accounts Such as Sams, Walmart, Staples**
- **Awarding of Contracts Creating Personal Gain**
- **Payroll Fraud**
- **Misuse of Federal & State Funds.**
- **Non filing of Liens**

# Direct Client Quotes of Convicted Felons

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“It was my ego. I struggled with it at first but then it just got to easy and I had funding for a life I always wanted.”

“I was desperate. I needed quick money and the opportunity in my job was just to tempting. I really intended to pay it back”

# Statutory Responsibilities: Governing Body (Selectmen/Council)

## **Governing Body's Job is To "Carry Out The will of the People"**

**8. Municipality.** "Municipality" means a city or town, except as provided in chapter 225.

- [ 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §13 and Pt (AMD) .]

**9. Municipal legislative body.** "Municipal legislative body" means:

- A. The town meeting in a town; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]
- B. The city council in a city; or [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]
- C. That part of a municipal government that exercises legislative powers under a law or charter. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**10. Municipal officers.** "Municipal officers" means:

- A. The selectmen or councillors of a town; or [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]
- B. The mayor and aldermen or councillors of a city. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**11. Municipal official.** "Municipal official" means any elected or appointed member of a municipal government.

# Town Manager:

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- **§2636. Powers and duties of town manager**

The town manager: [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

- **1. Executive and administrative officer.** Is the chief executive and administrative official of the town;  
[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]
- **2. Administer offices.** Is responsible to the selectmen for the administration of all departments and offices over which the selectmen have control;  
[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]
- **3. Execute laws and ordinances.** Shall execute all laws and ordinances of the town;  
[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]
- **4. Department head.** Shall serve in any office as the head of any department under the control of the selectmen when directed by the selectmen;  
[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

# Town Manager (Continued)

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- **5. Appoint department heads.** Shall appoint, subject to confirmation by the selectmen, supervise and control the heads of departments under the control of the selectmen when the department is not headed by the town manager under subsection 4;
- [ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]
- **6. Appoint town officials.** Unless otherwise provided by town ordinance, shall appoint, supervise and control all town officials whom the municipal officers are required by law to appoint, except members of boards, commissions, committees and single assessors; and appoint, supervise and control all other officials, subordinates and assistants, except that the town manager may delegate this authority to a department head and report all appointments to the board of selectmen;
- [ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]
- **7. Purchasing agent.** Shall act as purchasing agent for all departments, except the school department, provided that the town or the selectmen may require that all purchases greater than a designated amount must be submitted to sealed bid;
- [ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]
- **8. Attend meetings of selectmen.** Shall attend all meetings of the board of selectmen, and the town manager may attend meetings when the manager's removal is being considered;
- [ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

# Town Manager (Continued)

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- **9. Make recommendations.** Shall make recommendations to the board of selectmen for the more efficient operation of the town;  
[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]
- **10. Attend town meetings.** Shall attend all town meetings and hearings;  
[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]
- **11. Inform of financial condition.** Shall keep the board of selectmen and the residents of the town informed as to the town's financial condition;  
[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]
- **12. Collect data.** Shall collect data necessary to prepare the budget;  
[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]
- **13. Assist residents.** Shall assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices; and  
[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]
- **14. Remove appointments.** Has exclusive authority to remove for cause, after notice and hearing, all persons whom the manager is authorized to appoint and report all removals to the board of selectmen.

# Treasurer:

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- **Duties.** The treasurer shall:
- A. Except as provided in subparagraphs (1) to (3), and except as otherwise provided by charter or ordinance, disburse money only on the authority of a warrant drawn for the purpose, affirmatively voted and signed by a majority of the municipal officers.
- (1) The municipal officers may adopt a written policy to permit the disbursement of employees' wages and benefits when a disbursement warrant has been signed by one or more designated municipal officers. The policy must be filed with the town clerk and the municipal treasurer and renewed annually by vote of the municipal officers. (Not needed annually with 2011 legislation)
- (2) The municipal officers may adopt a written policy to permit the disbursement of payments for municipal education costs when a disbursement warrant has been signed by the school superintendent and approved by a majority of the school board or by a finance committee appointed or duly elected by the school board. The policy must be filed with the town clerk and the municipal treasurer and renewed annually by vote of the municipal officers. (Not needed annually with 2011 legislation)
- (3) The municipal officers may adopt a written policy to permit the disbursement of state fees when a disbursement warrant has been signed by one or more designated municipal officers. The policy must be filed with the town clerk and the municipal treasurer and renewed annually by vote of the municipal officers; (Not needed annually with 2011 legislation)

# Treasurer (Continued)

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- B. Upon request, provide an account of the finances of the municipality and exhibit the official records to the municipal officers or to any committee appointed by them to examine the accounts. The municipal officers shall examine the treasurer's accounts at least once every 3 months; and [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]
- C. Maintain a bank account in the municipality's name for the deposit of cash receipts. The treasurer shall deposit all cash receipts in the bank within 10 days . The treasurer may not commingle funds of the municipality with any personal funds or in any personal account of the treasurer.

# Tax Collector:

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- **§753. Municipal tax commitment; form**

The State Tax Assessor shall annually, before April 1st, prescribe the form of the municipal tax commitment to be used by municipal assessors in committing property taxes to the municipal tax collector. [P&SL c. 78, §21.]

- **§755. Bond**

The municipal officers shall require each tax collector to give a corporate surety bond for the faithful discharge of his duty, to the inhabitants of the municipality, in the sum, and with such sureties as the municipal officers approve. The tax collector may furnish a bond signed by individuals if such individuals submit to the municipal officers a detailed sworn statement as to their personal financial ability, which shall be found acceptable by the municipal officers. [1973, c. 695, §18 (RPR).]

Such bond shall, after its approval and acceptance, be recorded by the clerk in the municipal records, and such record shall be prima facie evidence of the contents of such bond, but a failure to so record shall be no defense in any action upon such bond. [1973, c. 695, §18 (RPR).]

SECTION HISTORY 1973, c. 620, §25 (AMD). 1973, c. 695, §18 (RPR).

# Tax Collector: (Continued)

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- **§757. Receipts for taxes**

When a tax is paid to a tax collector, he shall prepare a receipt for each payment; and upon reasonable request therefor, shall furnish a copy of such receipt to the taxpayer.

- **§759. Accounting; penalties**

Every tax collector shall, on the last day of each month, pay to the municipal treasurer all moneys collected by him, and once in 2 months at least shall exhibit to the municipal officers a just and true account of all moneys received on taxes committed to him and excise taxes collected by him, and produce the treasurer's receipt for money by him paid. For each neglect, he forfeits to the municipality \$100 to be recovered by the municipal officers thereof in a civil action.

- **§759-A. Prohibition on commingling funds**

A tax collector is prohibited from commingling personal funds with any funds collected for a municipality while performing the duty of tax collector. [2009, c. 193, §3 (NEW).]

- **§760. Perfection of collections**

Municipal assessors, or municipal officers in the case of primary assessing areas, shall specify in the collector's warrant the date on or before which the tax collector shall perfect his collections. Such date shall not be less than one year from the date of the commitment of taxes. In the event that no time is specified in the collector's warrant, tax collectors shall perfect their collections within 2 years after the date of the commitment of taxes. [1973, c. 695, §19 (AMD).]

# How To Be More Aware & Understanding of Your Environment – What to Do:

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## Governing Boards Administrators & Treasurers:

- 1) Establish Audit or Finance Committees
- 2) Attend Workshops & Trainings
- 3) Rely on Professional Help (Auditors, Lawyers, MMA)
- 4) Request Audit Presentation at Some Level with your Auditors.
- 5) Show up during Audits and Ask Questions to Managers or Auditors.

# How To Be More Aware & Understanding of Your Environment – What to Do:

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## Managers, Administrators & Treasurers:

- 1) Entrance & Exit Conference with Auditors.
- 2) Randomly Look at Bank Statements.
- 3) Send out Blanket Bank Account Confirmations during the Year to Local Banks.
- 4) Review “Deficiency List” with Motor Vehicle.
- 5) Perform Reference Checks on Fiscal Hires

# How To Be More Aware & Understanding of Your Environment – What to Do:

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- 6) Establish Written Fiscal policies & Procedures to be Adopted by Governing Board. (Email Policy Important & Personal Inspection Important)
- 7) Establish Mandatory Vacations for Fiscal Staff.
- 8) Stop Cutting Back Room Deals and let These Individuals be Judged.

# Questions & Answers:

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