American Bar Association
Section on Labor and Employment Law
Employee Benefits Committee

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Report of Subcommittee on Criminal Enforcement and Civil RICO

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Chapter 19. Criminal Enforcement and Civil RICO

I. Introduction

II. ERISA Title I Crimes
   No Reported Cases

III. ERISA-Specific Crimes in Title 18, United States Code
   A. Plan Covered by Title I of ERISA Required
   B. Theft or Conversion of Plan Assets
      3. Defendant Must “Embezzle,” “Steal,” or “Unlawfully Convert”
         In *U.S. v. Snyder*, the district court granted the motion of a corporate officer defendant alleged to have failed to pay company taxes and embezzled money from company 401(k) plan taxes to dismiss that part of the indictment concerning embezzlement of the 401(k) plan that occurred prior to the five-year statute of limitations. Noting that, while the Defendant embezzled $130,416.75 between July 31, 2010 and December 19, 2012, the court found that the alleged crime was not a continuing offense as it required him to exercise restraint or to affirmatively act in each instance.
   C. Falsification of Plan-Related Documents
      No Reported Cases
   D. Improper Payments to Plan Officials
      No Reported Cases

IV. Criminal Liability Under the Taft-Hartley Act, Section 302
   No Cases Reported

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V. Health Care Fraud

A. Fraud
   No Cases Reported

B. Theft or Embezzlement
   No Cases Reported

C. False Statements
   No Cases Reported

D. Obstruction of Criminal Investigations of Health Care Offenses
   No Cases Reported

E. Investigative Procedures
   No Cases Reported

VI. Racketeer Influenced and Corrupt Organizations (RICO)

   No Cases Reported