I once was a glorified bookkeeper, working my way through college with a family, before I became a true controller.

Back in the day of paper ledgers and journals, I worked for a leather-goods manufacturer. They made purses, wallets and pad holders (for regular old paper yellow pads, not iPads).

I had become increasingly concerned that, while sales remained stable, the cost of goods sold (COGS) was rising and negatively affecting the bottom line. I usually reported to the vice president, but something was nagging at me about going to him with this problem. Maybe it was the new gull-wing DeLorean or the $10,000 ultra-thin Piguet Jules watch that he recently bought. So off I went to the president instead.

After I explained to him the matrix of the income statement and its relation to inventory on the balance sheet, he was completely confused. However, he asked me to keep my analysis to myself.

A week later, I was being toasted with a raise and a three-day family weekend at the beach. Turns out the vice president was taking work-in-process from the locked-down holding areas, after hours, to a plant he had set up. His crew (the foreman also worked in collusion) would finish the goods and sell them to the various distributors and department stores.

The fraud was caught by the president, who had a trusted employee spend the night in his car outside the shop.

And the vice president, needless to say, went to jail. But the real satisfaction came when he bent the face of his Piguet and couldn’t use it anymore.

What I learned is that sometimes the first sign of fraud is just a feeling that something is not quite right. Numbers may not totally add up, or internal controls may be sloppy. A gut instinct can be very helpful when trying to catch white-collar criminals. But there are certainly red flags to look for.

Defining the Crime

The term “white collar” crime originated to distinguish the nonviolent nature of fraud from violent street crimes, such as armed robbery. It was used because most people in a position to commit fraud were white-collar clerical, managerial or executive employees within a business organization rather than blue-collar laborers. The term should not be taken too literally – a blue-collar truck driver or receiving dock employee who steals the inventory to which he has access is also committing white-collar crime.

Fraud that is visible on financial statements, however, is usually committed by higher levels of management. The perpetrators are typically well-educated, have a high social standing and are respected members of the community. They use their social and cultural background as well as their specialized knowledge and skills to their advantage.

In addition, they are usually experienced and adept at bending others to their will. An organization in which management is dominated by a single person or small group may be a perfect breeding ground for fraud. Intimidation, domineering behavior and pressure from top management are often part of the psychological deception to conceal a fraud.

The fraud accountant’s weapon to counter psychological deception is a well-developed professional skepticism. Professional skepticism is often described as a “show me” attitude that requires management to prove representations rather than present them to be accepted at face value.

Fraud, Rationalized

Once a corporate fraud perpetrator is identified, it won’t take long for you to wonder: Why? You may not believe it, but criminals often believe they are doing the right thing (or at least close to it).

From the 2002 Enron fraud scandal and forward, one of the most interesting behavioral beliefs held by perpetrators is their belief that they were acting in a legitimate manner. Prosecutors say these criminals, even after they enter a guilty plea, often take months or more to fully accept their guilt.

All of the convicted criminals had spent most of their lives viewing themselves as law-abiding citizens. Each believed that they were performing acceptable business practices within their organization – that the operational practices, while aggressive, were legal and even necessary for the survival of the organization.

This phenomenon of rationalization has been studied by the sociologist Robert K. Merton. In 1993, he first theorized that social structures provide motivation for misconduct because they focus individuals on competition, the importance of money in society and the erosion
of norms that encourage legitimate money-making behavior (goal orientation). When individual goal orientation receives more emphasis than the norm of the social structure, the norms will lose their power to regulate behavior. This produces a state of “anomie,” or normlessness – an important concept in sociology that is said to lead to lawlessness.

Merton also defines competitive economic activity – the production, exchange, distribution and consumption of goods, with wealth assuming a “highly symbolic cast” – as “culturally legitimated success-goals.” This definition fits closely to the behavior of most profit-seeking organizations.

For a business, economic success means not only cultural approval but survival. Regardless of the cultural emphasis on profits, an organization must seek profits, and profits will be a prime indicator of prestige within a society, as well as the key to social mobility within hierarchies of organizations. In short, money talks in the business world.

Merton states that, to obtain financial success, individuals must compete, for both the means toward the goal and the goal itself. The availability of both the tools to compete and the profits themselves is limited by insufficient supply and demand. When these limits threaten a competitor with losses, innovation may result in the endless quest for strategic resources.

And that innovation, often necessary to obtain financial success, can sometimes be found on the wrong side of the law.

**It’s About the Thrill**

Yep, committing crimes does give its perpetrators a thrill. High-dollar criminals describe their machinations as having a “kick.” They feel as if they’re playing a game, and it’s the game of their lives. Behaviorists agree. Money is a “generalized reinforcer,” linked with many positive factors directly, and often taking on a symbolic power of its own, yielding a condition of strength.

Game-playing exerts something similar on its participants. Someone who manipulates a chessboard or a deck of cards successfully gains a sense of strength over external events. We can play the game “for its own sake” because it yields the impression of strength.

Imagine the emotional charge to the “player” when the game’s power is combined with money as a generalized reinforcer, and both of these factors are played out with real people and settings. This dealmaker is racing through a thicket of reinforcements, and the greater the risk – financial, legal, personal – the greater the thrill.

Now, with a generation growing up playing action video games and living with cloud realities, isn’t it realistic to foresee some professionals wanting to duplicate these thrills in their real lives?

**It’s Also About the Why: The Fraud Triangle**

Research focusing on fraud has been performed in the fields of criminology, psychology, accounting, auditing and management. Among those fields, three key factors have emerged that determine whether a person will commit fraud.

The factors, which comprise the three points of the so-called fraud triangle, are:
- A perceived pressure facing the person
- A perceived opportunity to commit fraud
- The person’s rationalization or integrity

**Perceived pressures**

Knowing these three factors can help determine who is committing fraud in an organization. For example, several employees in a department may have the opportunity to commit fraud. However, by investigating the employees’ personal lives, you might find that only one is facing pressures that would motivate him to commit fraud. Keep in mind that, while it is beneficial to consider a perpetrator’s opportunities and pressures, it is very difficult to determine and understand a fraudster’s rationalizations. (See Table 1.)

**Opportunities**

There are often opportunities inside corporations that make them vulnerable to fraud, particularly if an employee has both the pressures and the rationalizations to commit such an act. A few areas that provide opportunity for fraud are:
- An inadequate separation of duties
- Failure of management to adequately inform employees about company rules and the consequences of violations
- Rapid employee turnover
- Crisis conditions
- A “workaholic” environment, with things such as the absence of mandatory vacations
- The failure to uniformly and consistently enforce standards and policies or to punish perpetrators

**Rationalizations**

As mentioned earlier, fraud can definitely be rationalized in the perpetrator’s mind. This is the ability to convince yourself that something you know is wrong is really OK. Fraudsters may often think: “I am only borrowing the money and will pay it back”; “Nobody will get hurt”; “The organization treats me unfairly, so they owe me”; “It’s for a good purpose.”

The research of Pamela Murphy, a professor at the Queen’s School of Business in Kingston, Ontario, Canada, demonstrates that just about anyone can convince themselves that what they are doing is right. Scan the QR code on this page to see more.

**TABLE 1: A fraudster’s potential pressures**

While certainly not all fraudsters are facing one or more of these perceived pressures, many white-collar criminals are dealing with some of these issues:

**FINANCIAL PRESSURES**
- High personal debt levels
- Overuse of credit cards
- Divorce
- Investment losses
- Sheer greed
- Family or peer group expectations

**PERSONAL HABITS**
- Addictions (alcohol, drug, gambling, etc.)
- An expensive extramarital affair

**WORK-RELATED FACTORS**
- Feelings of resentment stemming from being overworked, underpaid or passed over for promotion

See *White-collar criminal* page 7
The accounting profession first became a lucrative target for plaintiffs’ lawyers after the savings and loan industry collapsed in the mid-1980s, and little has changed since then. Accountants continue to be seen as deep pockets whenever financial transactions go sour, and regulatory scrutiny of the profession has increased.

It is no fun to be sued for malpractice. Even a defensible lawsuit in which you ultimately prevail will cost attorneys’ fees below your insurance deductible, and will intrude upon your and your colleagues’ time, attention and emotions.

Moreover, what about the damage to you and your firm’s hard-earned reputation? The buzz around town will be that you got sued. The favorable resolution three years later will be yesterday’s news and may be confidential in any event.

Your goal, then, is not to get sued in the first place.

The first part of this article discusses common ways accountants can get into trouble. The second part covers what to do if you are sued. The installment in the next issue of Of Mutual Interest will offer tips that you can incorporate into your practice today that will help you avoid malpractice claims and, in the unfortunate event that you are sued, increase your chances of a successful defense.

Part 1. Common Sources of Liability

Attest Work

While reviews and compilations have generated litigation, the most significant claims in terms of dollar value arise from audit work. Like it or not, auditors are viewed by the public at least as “watchdogs,” and perhaps as “bloodhounds.” Regardless of what the auditor’s opinion letter says on its face, the public views it as a guarantee concerning management’s integrity and, for better or worse, juries often do so too. The “expectations gap” is alive and well.

Maintain your independence from your client, and avoid actions that might suggest you are anything but independent. An auditor’s presumed lack of independence is a plaintiff’s favorite button simply because it is something a jury can appreciate and will react to. While a jury may fall asleep listening to experts talk about GAAS and GAAP, it may become incensed if the “independent” auditor vacationed in Hawaii as his client’s guest.

So don’t let your friendship or long-standing relationship with your client cloud your judgment. Problems start to occur precisely when you start to relax – which is why regulators are again pushing for auditor term limits and rotation of engagement partners. Have a healthy skepticism; if you see a problem, don’t ignore it. Ask questions until you are satisfied. If the client is honest it will work with you. If the client is dishonest, then it should find another accountant.

Tax Work

Tax advice and return preparation result in the greatest number of claims against accountants, though their monetary value is not as significant as audit claims. This isn’t surprising. Not only is tax work a mainstay of most accountants’ practices, but your work product in that area – the tax return – is subject to a hindsight examination by the government.

Tax malpractice results most frequently from simple lapses. Tax claims range from missed deadlines and elections to poor advice to, most of the time, return errors. Malpractice occurs more from simple inattentiveness and poor client communications than from errors due to the complexities of the tax code. Many problems can be prevented by simple quality control procedures, such as an adequate tickler system.

Be careful when giving spur-of-the-moment tax advice. If your client calls during the rush of tax season with a “quick question,” take a moment to evaluate if the question is easy enough, and the client sophisticated enough, that you will be able to answer the question competently without taking the time to research the issue. If you do proceed with giving “quick advice,”
dictate a file memo summarizing the advice. If your client is unsophisticated and/or the question is complex – or if large dollars are involved – confirm the advice with a short letter summarizing the information you were given, the advice you gave, reminding that it was a general discussion, and inviting the client to discuss the matter in more detail with you when time permits.

Also be careful when preparing last-minute extensions based upon what a client has told you but not confirmed in writing. It’s easy during tax season to forget unusual items that should be included when calculating the extension payment. Document your discussions with your client and confirm in writing that the extension is based upon and only as good as the information provided by the client.

The best practice is to make sure you have all the facts before you give sensitive tax advice. Tell the client you need more time and/or more facts before you can be in a position to give advice. Do not let the client rush you.

Think twice about keeping your clients’ books, lest they say it’s your own fault you didn’t have the information needed to prepare the now-tardy tax return. Make sure your engagement letter states that it is the client’s responsibility to timely provide you with the information necessary to prepare the return. Without such documentation, a jury may have to decide whose job that was based upon your word against your client’s.

Finally, be careful representing your clients before the IRS or other taxing authorities. Not only is there no attorney-client privilege but your “mea culpa” attempts to exonerate your client may come back to haunt you when the client sues you. You will also be extending the time your client has to decide whether or not to sue. Regardless of when the statute of limitations for tax malpractice begins to run in your state, it may not run at all while you continue to represent your client in dealing with the IRS. If you have some exposure, it’s probably best that you cease representing the client.

Consulting and Other Work

Offering consulting or management advisory services, such as litigation support and trustee services, can create exposure. If the consultant (or even your tax preparer) is not a CPA, tell your client that a non-CPA is doing their work. Otherwise, the client may think your staff person is a CPA, which can form the basis for a “bait and switch” fraud claim.

Remember that information learned in a consulting engagement (e.g., that the client is losing a large account) may be relevant to your firm’s audit or tax engagement and vice versa, and the knowledge of the consultant can be imputed to the auditor – so communicate with each other. And beware of conflicts of interest: Consulting can compromise auditor independence.

While beyond the scope of this article, other traditional accounting work like business valuation and preparing projections can lead to exposure. Use appropriate disclaimers when submitting your work to the client. Doing work for employee benefit plans and implementing a computer system for your client can also spawn litigation.

Exposure to Third Parties

In most states nowadays, accountants can be liable not only to their clients but also, under certain circumstances, to non-clients. Lenders, investors, acquirers, insurance commissionaires, bankruptcy trustees and receivers have all sued accountants. Don’t make it easier for these potential plaintiffs. Disclaim responsibility to non-clients in your engagement letter. If a bank calls to say it’s going to lend based on your work, don’t say that’s fine. Investors finance a company for any number of reasons; it is only in hindsight, after the deal goes sour, that they say all they relied on was your audit opinion. Don’t let them escape the responsibility of doing their own due diligence.

Part 2. What to Do If You Are Sued

Being served with a lawsuit or getting a letter from your state board or the AICPA can ruin your day. But you can’t ignore the situation. What you do next could make matters worse and affect your ability to mount a strong defense.

First, don’t try to “fix” the problem yourself. Don’t try to talk your unhappy client out of suing you. He may have already gone to a lawyer. You won’t change his mind, and anything you say to him can and will be used against you in litigation. Don’t prepare a mea culpa memo to your partner justifying your work, and think twice even about getting a second opinion from your colleague. That memo and conversation will be discoverable by the opposition in litigation.

Do not destroy any documents. The last thing you need is to defend a spoliation case on top of a malpractice case. Document destruction ranks with auditor independence problems as a plaintiff’s preferred “spice” to inflame a jury.

Don’t “supplement” or “update” your workpapers with what you now remember was done. Workpapers are supposed to be contemporaneous documents; that’s why they’re a powerful defense tool. If you kept them properly, they will refresh your memory and help convince the jury that you did solid work. Otherwise, you’ll have to convince them with only your own hindsight testimony.

Notify your insurance carrier as soon as you think there may be a claim, and do it in the precise manner stated in the policy. If you wait too long, coverage might be denied. If you simply call your local agent, and don’t follow the formal notification procedures, coverage might be denied.

The sooner you get a lawyer, the sooner the attorney-client privilege will attach to protect your communications and your work product. Otherwise, what you say and do will be discoverable. Your attorney can help you prepare a proper disengagement letter, if you haven’t already disengaged, and then guide you through the litigation or regulatory process.

George J. “Jay” Coleman, III, J.D., is with Mack Watson & Stratman, a law firm in Phoenix, Ariz. He represents clients in complex commercial litigation and other forms of dispute resolution. His practice has an emphasis on matters involving allegations of securities and business fraud and representation of accounting firms and law firms in malpractice litigation. Contact him at jcoleman@mackazlaw.com.
A binding quotation is subject to receipt and approval of a completed CPA Mutual Professional Liability Insurance Application. This is a "Quick Quote" form to permit us to give you a premium indication. Please complete and return this form to CPA Mutual’s Servicing Office, CPA Mutual Management, Inc., 4923 NW 43rd St., Suite C, Gainesville, FL 32606, Telephone: (800) 543-3029 or (352) 240-7800, Fax: (352) 240-7896. www.cpamutual.com (Please type or print.)

1. Name of prospective applicant: ____________________________________________________

2. Principal business address: _______________________________________________________

   City_________________________________ State________ ZIP______________________________

   Telephone (______) Fax (______) _________________________________

   E-mail ___________________________ Web site: ________________________________

3. Staff Size:  a) Number of full-time proprietor(s), partner(s) and owner(s): __________
   
   b) Number of CPAs (excluding those listed above): __________
   
   c) Number of all other staff including administrative support and clerical staff: __________
   
   d) Number of part-time equivalent employees (Estimated total hours worked by all part-time, per diem employees during the past 12 months divided by 2,080): __________

   TOTAL STAFF: __________

4. Estimated annual billings: _______________________________________________________

5. Has the prospective applicant carried continuous professional liability insurance during the past 5 years?  ❑ Yes ❑ No

   a) Please provide the following regarding your current year professional liability insurance coverage:

   Insurance Company Limits of Liability Deductible Annual Premium
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

   b) Date current policy expires (Month/Day/Year): ______________
   
   c) Retroactive or prior acts date: ______________

   d) Does your firm perform audit and/or review services?: ❑ Yes ❑ No

   e) Do you desire coverage for audit and/or review services?: ❑ Yes ❑ No

6. Check limit of liability desired. (Limit applies to each claim and in the annual aggregate and is subject to applicable deductible.)

   ❑ $250,000 ($250,000 limits available only if staff is less than 15.)  ❑ $500,000
   
   ❑ $1,000,000 ❑ $2,000,000 ❑ $3,000,000 ❑ $4,000,000 ❑ $5,000,000

   Upon receipt of a completed, full application, quotations may be obtained for limits in excess of $5 million.

7. Check deductible desired. (Per claim applies to both loss and expense.)

   Staff Size 1-15: ❑ $ 1,000 ❑ $ 2,500 ($1,000 or $2,500 deductible available only with $250,000 or $500,000 limit of liability.)
   
   Staff Size 1-24: ❑ $ 5,000 ❑ $10,000
   
   Staff Size 25-49: ❑ $10,000 ❑ $25,000
   
   Staff Size 50+: ❑ $25,000 ❑ $50,000

   Other deductibles may be available upon request.

Name of person submitting this request ___________________________ Date _______________

To receive a binding quotation, please request an application for completion.

For additional information, please complete questions 1 and 2 above, and return this form to CPA Mutual.
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A binding quotation is subject to receipt and approval of a completed CPA Mutual Employment Practices Liability Application. This is a “Quick Quote” form to permit us to give you a premium indication. Please complete and return this form to CPA Mutual’s Servicing Office, CPA Mutual Management, Inc., 4923 NW 43rd St., Suite C, Gainesville, FL 32606, Telephone: (800) 543-3029 or (352) 240-7800, Fax: (352) 240-7896. www.cpamutual.com (Please type or print.)

1. Name of prospective applicant: ______________________________________________________________

2. Principal business address: _________________________________________________________________
   Telephone (   ) Fax (   )
   City __________________________ State __________ ZIP __________
   E-mail __________________________ Web site: ___________________________________________________

3. Staff Size:
   a) Number of full-time employees: ________
   b) Number of part-time employees: ________
   c) Number of seasonal employees: ________
   d) Number of temporary employees: ________

4. Estimated annual billings: _________________________________________________________________

5. Has the prospective applicant carried employment practices liability insurance during the past 5 years?  
   ❑ Yes ❑ No
   a) If so, please provide the following regarding your current year employment practices liability coverage:
      
      | Insurance Company | Limits of Liability | Deductible | Annual Premium |
      |-------------------|---------------------|------------|----------------|
      |                    |                     |            |                |
      
      b) Date current policy expires (Month/Day/Year): ____________________________________________
      c) Retroactive or prior acts date: _________________________________________________________

6. Check limit of liability desired. (Limit applies to each claim and in the annual aggregate and is subject to applicable deductible.)
   ❑ $250,000/$750,000 ❑ $500,000/$500,000 ❑ $1,000,000/$1,000,000 ❑ $1,000,000/$2,000,000 ❑ $1,000,000/$3,000,000

7. Deductible Requested: $2,500 ________ $5,000 ________ $10,000 ________ Other _________________

8. Does applicant publish an employees’ manual? ___________ Is it distributed to all employees? ________________

9. Has the applicant implemented or adopted anti-sexual harassment policies/procedures?  
   Yes ___________ No ______________

10. Has the applicant adopted anti-discrimination policies/written procedures regarding the selection of employees for hiring, promotion, transfer, layoff, salary increases, work assignments and other employment related areas?  
    Yes ___________ No ______________

____________________  ______________________
Name of person submitting this request                     Date

To receive a binding quotation, please request an application for completion.
TABLE 2: Watcher beware of initial red flags

The savvy accountant may catch wind of corporate shadiness if these warning signs begin to appear:

1. Problems detected by internal controls
2. Employee complaints
3. Problems detected by an internal auditor’s review of controls
4. Customer or vendor complaints, such as payments not being credited to the customer’s account or contracts not received
5. Accidental discovery of something that warrants follow-up, such as two expense reports that contain receipts for the same airline ticket
6. Accusations from anonymous sources
7. Unusual or unexplained financial statement trends
8. Changes in an employee’s lifestyle that are not consistent with the employee’s salary or wages or other known sources of income
9. Abrupt changes in an employee’s behavior that can’t be explained by other factors
10. Problems detected in the course of an external audit, review or compilation

On the Lookout

Though the dollar amounts (and the audacity) of some white-collar crimes boggle the average observer’s mind, the crime remains an act of behavior and so should be approached using the same method used to analyze a $3,200 credit card fraud. The perpetrators may be described as “obsessive” and “megalomaniacal,” but they are still behaving in a network of actions, where behavior is subject to operant conditioning.

The specific measures will be particular to the crime. The actions dictate the response. But whether we’re dealing with a clerical worker’s credit card fraud or the “business expense” of Tyco CEO Dennis Kozlowski’s $2.1 million toga party, our methods can be behavioral. Fraud examiners may never eradicate crime completely, but approaching criminal acts scientifically, we can become more successful in anticipating and eradicating crime. But approaching criminal acts scientifically, we can become more successful in anticipating and eradicating crime.

Breaking the Cycle

There are many ways to make an organization more impervious to fraud, but it is important that management tries to “break” the fraud triangle by implementing specific policies and procedures in addition to developing fraud deterrence controls (see Table 3).

Most important is creating an ethical environment starting with a positive tone at the top and corporate-wide core values and policies to which all employees have buy-in. Secondly, organizations must reduce employees’ opportunities to commit fraud. Surveillance procedure and timely preparation and review of monthly financial statements help ensure that finances are well-controlled. Policies like periodic job rotation and mandatory vacations can help boost morale. And finally, management can monitor the pressures on employees that could push them to commit fraud and develop appropriate responses. Adopting appropriate personnel policies and swiftly enforcing violations, performing drug tests and providing counseling and dispute resolution services can all help reduce and mitigate employee pressures.

There are many areas in which the talents of CPAs are useful to detecting fraud. Once you know what to look for – and how the mind of a white-collar criminal works – you could become an indispensable forensic accountant to your company or your client.

Reprinted with permission from the Virginia Society of CPAs. This article was developed from Bill Barrett’s course, “Forensic Accounting in Non-Audit Engagements.”

BILL BARRETT, CPA/ABV/CFF, a sole practitioner in Richmond, has investigated fraud in business and professional entities, and has directed federal teams investigating multi-defendant money laundering, illegal income, tax evasion and white-collar fraud. He is the current vice president of practice for the American Accounting Association Forensic and Investigative Section. Contact him at billbarrett@barrettpc.com.

TABLE 3: Five steps to designing fraud deterrence controls

While developing a suitable fraud deterrence program is an in-depth process, there are five basic steps to those controls:

**STEP 1:** Review the organization-level components of internal control and identify weak or nonexistent controls.

**STEP 2:** Identify assets (and related transactions) susceptible to misappropriation.

**STEP 3:** Review the organization’s systems and procedures relating to the vulnerable areas, and identify weak or missing systems and procedures.

**STEP 4:** Develop controls to reduce the risk of misappropriation in the vulnerable areas.

**STEP 5:** Consider the cost/benefit relationship of the controls developed.
**Question:** Can you force an employee to go home who is coughing, sneezing, hacking and has a runny nose? The employee is out of sick leave but has vacation leave available to use. The employee is exempt.

**Response:** We are not aware of any reason why an employer cannot seek to send home an employee who reports to work obviously and visibly ill if management reasonably believes that the health and safety of that employee or other employees may be at risk. Under federal and state occupational safety and health laws, employers have a duty to ensure the work environment is safe and healthy, and this would presumably include taking measures to ensure that employees who report to work obviously ill and possibly contagious are asked to leave the premises so as not to risk infecting co-workers, and/or to not return to work without a fitness-for-duty certificate from their doctor (if this is consistent with company policy).

Admittedly, there may be variances in the application of a policy to send home sick employees if each manager or supervisor has discretion to determine whether an employee is too ill to be at work or otherwise a risk to the health or safety of others. In this regard, managers and supervisors should be given basic instructions and parameters regarding application of the policy to ensure it is applied as consistently as possible throughout the organization.

Note that, when an employee is reasonably sent home from work, then if the employer has a paid time off (PTO) or sick leave policy that provides payment to employees who are out sick, we are not aware of any reason why it could not require use of the policy in this situation (unless there is a governing contract, regulation or policy to the contrary). Also, we are not aware of any law that prohibits sending an employee home as explained above even if the employee has no PTO or sick time.

There is no duty to pay a non-exempt employee for time away from work if he or she has no accrued paid time off benefits (including sick leave) to utilize. Exempt employees must be paid in full for any partial day worked, even if there are no sick leave or other paid time off benefits, and this would include any day he or she is sent home early.