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Insights

April Hoosier Banker: Compliance Connection with Partner Brett Ashton

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Question: We have experienced several losses in recent months through check fraud. While we have been working with local law enforcement to identify the guilty parties, we have been told that law enforcement cannot help us if the fraudsters "disappear" across state lines, in our case to Illinois. Does Indiana law provide any remedy for us to pursue criminals who flee out of state?

Answer: Indiana is one of 48 states that have adopted the Uniform Criminal Extradition Act (UCEA);[1]however, to pursue an individual convicted of a crime in Indiana, but who then flees to another jurisdiction, you will have to look to the state law in the state you believe the fugitive is present. Every state is limited in the legal authority it may enforce to the people within its borders.

The UCEA provides a process for a state seeking to enforce its laws to extradite a person who has been convicted of a crime in another state, In the situation described above, the bank would have to work with local law enforcement authorities to report the check fraud, and ask them to pursue criminal charges against the fraudsters. Ind. Code 35-43-5-5(a) provides that any person who knowingly or intentionally issues or delivers a check, draft or an order on a credit institution for the payment of or to acquire money back to the state from which he or she fled. In addition to the many state adoptions of the UCEA, the U.S. Constitution provides: "A person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime."[2]

In the situation described above,the bank would have to work with local law enforcement authorities to report the check fraud, and ask them to pursue criminal charges against the fraudsters. Ind. Code 35-43-5-5(a) provides that any person who knowingly or intentionally issues or delivers a check, draft or an order on a credit institution for the payment of or to acquire money or other property, knowing that it will not be paid or honored by the credit institution upon presentment in the usual course of business, commits check deception, a Class A misdemeanor. If, however, the amount of the check is at least $750, the offense is considered a Level 6 felony. [3] Assuming the parties involved were convicted of a crime, the court would then have to enter sentence against them and, ultimately, issue an arrest warrant.

If the now convicted fraudster is still in Illinois, Indiana law enforcement authorities should work with the authorities in that state to extradite the guilty party under the Illinois version of the UCEA.[4] 725 I.L.C.S. 225/2 provides, in part: "it is the duty of the Governor[5] of this state to have arrested and delivered up to the Executive authority of any other state of the United States any person charged in that State with reason, felony, or other

crime, who has fled from justice and is found in this state." While this article has examined the Illinois UCEA, the other surrounding states to Indiana have also adopted their respective versions of the UCEA.[6]

Unfortunately, while the law may support extradition of the fraudsters involved in this case, oftentimes the challenge will be the practical application of the UCEA for what may not be a significant fraud in the eyes of law enforcement, despite being a real loss for the bank.

[1]Ind. Code § 35-33-10-1 et. seq.
[2]U.S. Const., art. IV, § 2, cl. 2.
[3]Ind. Code § 35-43-5-5(a)(1)
[4]725 I.L.C.S. 225/1 et. seq.
[5]Note however, the terms "Governor" and "Executive Authority" in the Illinois UCEA include any person performing the functions of governor by authority of law of Illinois, and the other state respectively.
[6]M.C.L.A. § 780.1 et. seq.; OH. Stat. § 2963.01 et. seq.; K.R.S. § 440.150 et. seq.