

# Doron F. Eghbali Closely Held Business Law

## [How to Avoid Hiring Irresponsible Employees](#)

Monday, February 8, 2010 by [Doron F. Eghbali](#)

Unfortunately, it could be hard to constantly monitor employees to thwart embezzlement or other kinds of theft. This is partly because small businesses lack the kinds of checks and balances that big corporations enjoy. Nonetheless, this does not mean small businesses cannot adopt some of the strategies and procedures out of the big corporations playbook to protect themselves.

### **1. PREPARE AND USE JOB APPLICATION**

You should prepare a formal job application that asks prospective employees:

- Their Full Name
- Their Permanent Address
- Their Phone Numbers
- Their Education
- Their Complete Employment History
- Their References

This information gives you a better picture of who you are dealing with. You should also indicate on the application that providing false information can lead to dismissal.

### **2. ASK PROBING QUESTIONS**

You should carefully review the job application and during the in-person interview ask about *any gaps in employment*. An employee might have any number of innocent explanations such as attending school, changing career goals or caring for a family member. However, gaps in employment could also signify:

- Inability to Keep a Position.
- Sudden Dismissal for Non-Innocent Reasons. Or
- Prison Time.

But, you might be wrong in your evaluation. Maybe the employee is not as guilty as you might think or as innocent as you have concluded. Hence, you should have another person whom you trust interview the employee, as well.

### **3. DOUBLE CHECK REFERENCES AND PREVIOUS EMPLOYERS**

Although former employers maybe wary of a defamation suit if they give you negative information about their former employee, you could at least confirm if the prospective employee

has in fact worked there and what the salary history is. Perhaps, one of the best questions you could ask a former employer is *whether the prospective employee is eligible for rehire*.

#### **4. CONDUCT A BACKGROUND CHECK**

This is an intelligent idea to perform a background check on a prospective employee. However, employers should seriously keep in mind the following:

- **Obtain Consent from Employee:** The Fair Credit Reporting Act, which sets standards for employment vetting, requires obtaining CONSENT from employees before performing a background check. You should carefully review the Fair Credit Reporting Act [website](#) for compliance. In addition, this is prudent to consult your attorney for further compliance requirement.
- **Be Wary of Some Information to Make Employment Decisions:** Some state and federal laws prohibit using some kinds of information such as race, ethnicity, religion and sex in making employment decisions. You should consult your attorney to avoid running afoul of the law.
- **Consider the Type of Your Employment:** Some businesses might need or require a background check as opposed to others. For instance, some states require conducting a background check for health care or child care employees. This is, also, certainly prudent to perform background check if the prospective employee has access to sensitive data and information.

#### **5. HAVE A PAID TRYOUT PERIOD**

No background check or other information may tell you better if a prospective employee is a good fit for your business than if that employee actually works for you. However, you could have the employee work on a test project for a limited time. This would provide you invaluable intelligence as to whether the employee is the one whom you could trust and has the expertise, aptitude or attitude required to excel.

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