



### Embezzlement<sup>1</sup>

Complainant reviewed reports and evidence showing that the Milwaukee Police investigated Robin Nissen for embezzling money from her employer, Advance Landscaping and the owner FMK. Nissen was the part-time secretary for Advance Landscaping for approximately eight year and was in charge of payroll and billing. Outside of FMK, she was the only individual with access to the business's ledger in the computer and it was her responsibility to maintain the ledger. Outside of FMK, she was the only individual with authority to print checks from the ledger. From approximately 2015 until 2018, Nissen would create fictitious payments to businesses on the computer business ledger. She would print a check in her name, while the business ledger would contain a false entry for who the check was payable to. These checks would be printed off at the business location at 5970 South Howell Avenue in the City and County of Milwaukee.. During that time period, Nissen fraudulently wrote out over \$600,000 worth of checks to herself and deposited them into her personal account. This was all done without the consent of FMK or Advance Landscaping and resulted in significant additional income for Nissen.

Year Embezzlement Occurred	Amount Embezzled
2015	\$67,805.95
2016	\$163,345.78
2017	\$235,874.61
2017	\$177,805.05
<b>Total</b>	<b>\$644,831.39</b>

### Fraudulent Tax Returns<sup>2</sup>

Complainant's investigation further revealed that Nissen failed to accurately report her income while filing her Wisconsin taxes. For tax years 2015 and 2018 (filed in 2016 and 2019), Nissen failed to report her embezzled income and thereby evaded more than \$14,000 in Wisconsin income tax by understating her gross income. In doing so, Nissen rendered false or fraudulent income tax returns with the intent to defeat or evade any assessment required by Wisconsin income tax law. In addition, for the tax years of 2016 and 2017, Nissen failed to file any income tax returns. Her failure to file tax return thereby evaded more than \$28,000 in Wisconsin income tax.

Complainant reviewed several categories of documents relevant to Nissen's income liabilities for 2015-2018:

- Complainant reviewed Nissen's W2 forms and tax returns for the years 2015 and 2018. Nissen's 2015 documents show \$70,043 in wages for herself and her spouse. It also reflects additional income from gambling for \$6,160. Nissen's 2018 documents show \$83,530 in wages and additional income for herself and her spouse. Neither year reflects any of the embezzled amount as income.
- Complainant reviewed the embezzlement investigation summaries and documents, prepared by the Milwaukee Police Department, as well as bank records documenting the embezzlement income. These documents show that, in 2015, Nissen received \$67,805.95 in additional income via the embezzlement scheme described above. In 2016, Nissen received \$163,345.78 in

<sup>1</sup> As a result of the embezzlement described above, Nissen was charged with Theft-Business Setting (>\$100,000) in Milwaukee County Case No. 2020CF141. At the time of this complaint, that case was still pending.

<sup>2</sup> The State reserves the right to bring additional charges, including, without limitation, for Failure to File Income Tax Returns, under § 71.83(2)(a)1, Business Entity Identity Theft, § 943.203(2)(a), Fraudulent Writings, § 943.39, and Forgery, § 943.38.

embezzlement income. In 2017, Nissen received \$235,874.61 in embezzlement income. In 2018, Nissen received \$177,805.05 in embezzlement income.

- Complainant further reviewed Nissen's 2015 and 2018 Wisconsin income tax filings. These filings reflect that none of the above-mentioned additional embezzlement income was disclosed in her filings. Further, Complainant's investigation found that there were no income tax filings at all for the years 2016 and 2017 and thus no income reported.

In reviewing Nissen's 2015 and 2018 tax returns, Complainant determined that Nissen failed to report the embezzled income on her tax returns filed for the tax years 2015 or 2016. Complainant determined this by reviewing all of the documented income (via W2 statements, tax forms showing any pension distributions, tax forms showing gambling income) and the information described above. None of the embezzled income was reported on her returns. During the time period covering the 2015 and 2018 tax filings, Nissen lived at 8640 South Glen Forest Court, in the City of Oak Creek, County of Milwaukee. She currently still lives there. As such, venue lies in Milwaukee County.<sup>3</sup>

For the 2015 and 2018, Nissen completed her tax returns herself using Modernized efile software (i.e. TurboTax) and electronically submitted them to the WDOR. WDOR received Nissen's 2015 Wisconsin tax return on January 26, 2016. Based on her 2015 filings, Nissen would've been owed a refund for \$826. However, that return ultimately was not processed due to suspicious activity and that refund was not paid out. Her 2018 return was received on February 22, 2019. Based on her 2018 filings, Nissen would have owed an additional \$2,362 in tax liabilities. She never made any payments on those taxes.

As detailed below, had Nissen reported this additional income on her tax returns in the 2015 and 2018 tax years, she would have owed thousands of dollars in additional income taxes. In tax year 2015, Nissen would have \$4,356 in tax due and owing. In tax year 2018, Nissen would have \$11,611 in tax due and owing. By failing to include the embezzlement income on her 2015 and 2018 returns, Nissen was rendering a false return. As such, by failing to report the stolen income, Nissen evaded \$15,967 for tax years 2015 and 2018. Further, by failing to file any tax returns for the 2016 and 2017 tax years, Nissen failed to pay any income taxes owing for those years. In tax year 2016, Nissen would have had \$10,351 in tax due and owing. In tax year 2017, Nissen would have had \$18,147 in tax due and owing. She made no payments and thus evaded \$28,498 in taxes for tax years 2016 and 2017.

<b>Summary of Taxes Evaded by Robin Nissen</b>				
	<b>Tax Year</b>			
	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Reported Wisconsin Income	70,043.00	0.00	0.00	83,530.00
Unreported Embezzlement Income	67,805.95	163,345.78	235,874.61	177,805.05
Additional Income	6,160.00	70,930.67	118,503.80	0.00
Gross Income (Corrected)	144,098.95	234,276.45	354,378.41	261,335.05
Tax Due & Owing (Corrected)	4,356.00	10,351.00	18,147.00	11,611.00
Tax Previously Assessed	(826.00) <sup>4</sup>	0.00	0.00	2,362.00 <sup>5</sup>
<b>Taxes Evaded</b>	<b>4,356.00</b>	<b>10,351.00</b>	<b>18,147.00</b>	<b>11,611.00</b>

<sup>3</sup> "A proceeding for a criminal violation under [chapter 71] may be brought in the circuit court for Dane County or for the county in which the defendant resides or is located when charged with the violation." See WIS. STAT. § 71.80(6)(m).

<sup>4</sup> Based on her 2015 tax return where Nissen failed to disclose the embezzlement income, she was owed a refund of \$826.00. However, due to suspicious activity in that return, the return was not processed and the refund was not paid out. As such, the Taxes Evaded is not increased by any refunds paid and the entire Tax Due and Owing is the amount evaded.

<sup>5</sup> Based on her 2018 tax return where Nissen failed to disclose the embezzlement income, she was due to pay \$2,362. However, she made no payments on that tax liability. As such, the Taxes Evaded is not decreased by any payments made and the entire Tax Due and Owing is the amount evaded.

The fact that Nissen filed tax returns in 2015 and 2018 demonstrates her knowledge that the filing of tax returns and the inclusion of all income was required to determine tax responsibilities. Complainant infers that Nissen understated her income with intent to evade payment of income taxes based on the magnitude of the income understatement, her desire to avoid detection of her embezzlement scheme, her experience handling Advanced Landscaping's bookkeeping and financial matters, her execution of a scheme that required falsifying bookkeeping entries, and the totality of circumstances outlined in this complaint.

Under the totality of circumstances articulated herein, Complainant believes that Nissen willfully filed a false or fraudulent tax returns with intent to evade payment of income taxes contrary to Wis. Stat. § 71.83(2)(b)1. These acts and crimes are further evidence of Theft by Employee, in violation of §943.20(1)(b), because the omission of stolen income serves to conceal these crimes and indicates consciousness of guilt. Further, Complainant believes Nissen's failure to file returns for the 2016 and 2017 tax years was willful based upon the above information, including her experience with bookkeeping and financial matters and the fact that she filed returns for tax years 2015 and 2018, thus demonstrating her knowledge that filing was required.

\*\*\*\*End of Complaint\*\*\*\*

**Electronic Filing Notice:**

This case was electronically filed with the Milwaukee County Clerk of Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases. Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov> and may withdraw as an electronic party at any time. There is a \$ 20.00 fee to register as an electronic party. If you are not represented by an attorney and would like to register an electronic party, you will need to contact the Clerk of Circuit Court office at 414-278-4120. Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Criminal Complaint prepared by Matthew Richard Westphal.

Subscribed and sworn to before me on 09/11/20

Electronically Signed By:

Electronically Signed By:

Michael Austin

Matthew Richard Westphal

Complainant

Assistant District Attorney

State Bar #: 1071292