

## Amendment 1.1 SC Union Maricopa Bylaw's

### Anti-Embezzlement and Anti-Theft Article:

This amendment is being added to our bylaw's due to previous accounts. This article will highlight the State Law, making them actionable by the club as an official order that all staff and executives have received. The article will highlight the areas of the club that are money handling and are not.

#### Awareness action:

All employees, contractor, full time, part time, or seasonal will be held responsible to the State of Arizona anti-embezzlement laws under ARS 13-1902 and ARS 13-1802. Outside of currency (money) team owned equipment will be valued into action to increase the probability of felony charges. For example, the State of Arizona Law states that anything over \$1,000.00 in theft of property, currency or a combination from an employer or a business is a felony that carries a jail term of two years and a fine of up to \$1,000 plus surcharges, with a Class 6 felony charge. Anything under a \$1,000.00 is a Class 1 misdemeanor for amounts under \$1000 and a jail term of six months and a fine of up to \$2,500 plus surcharges. Class 1 misdemeanors are the charges with the least severity and attract a jail term of up to six months in jail and are for smaller amounts of funds involved. The judge can also sentence you to three-year probation instead of jail time. As the value of the embezzled property rises, the severity of the charges goes up.

#### For example:

If you have stolen financials in the amount of \$500.00, but you have the following properties that have not been returned within the 5 days window provided:

- Club Uniforms in Full- \$5000.00
- Club equipment (Pugg Goals)- (2 years old)(decrease in value by 14%)- \$69.00 each over 5 sets- \$345.00
- League and Training Balls- \$2,240.00
- Training equipment- (2 years old)(decrease in value by 14%)- \$200.00

Total Value of Suit: \$8,285.00

This would be considered as a Class 3 felony is for amounts of \$4000 but under \$5,000. It attracts a jail term of 8 years and nine months and a fine of up to \$1,000 plus surcharges.

## Amendment Rules by position and program:

### President-

- Can handle cash and property with the awareness of the individual that is supplying the currency, making the treasurer aware, and the Head of Soccer. Cash being handled outside of business affairs is not permitted without the awareness of these three parties. The directors do not have to be informed but can if the President chooses to. This will range from club dues to fees.
- Youth Payments: the President will uphold the same rules for the youth but has to inform the program manager of any funds recorded. This ranges from club dues, late fees, outstanding balances, field fees, ref fees, and tournament fees.

### Head of Soccer-

- Can handle cash and property with the awareness of the individual that is supplying the currency, making the treasure aware, and the President. Cash cannot be handled for business affairs unless this task is appointed by the President and the President will have to be made aware of the funds. If the funds are not brought to the Presidents attention and the President is made aware by other channels or have to ask, this can be seen as embezzlement and can be actioned, but not limited. If the business chooses to recover the fund by requesting them or deducted the funds from payroll, they have that choice. If they choice not to pursue the funds and move to legal, this action is permitted as well.
- Youth Payments: the Head of Soccer must refer the parents to their coach or manager. If the matter exceeds the coach or manager, the matter must be referred back to the President or Treasurer.

### Office Head or Treasurer-

- These two positions are held to a financial standard by law. These two positions have free range to handle financial under State Law and Federal Law. These two positions are not limited to programs but are punishable by law of the state and federal.

### Program Directors-

- Are not permitted to handle cash or financial transactions of any kind. All request must be referred back to the Office Head, Treasurer, Head of Soccer, or the President for approval or next steps.
  - If the Program Director is found in violation of this action, this will result in automatic termination and charges being filed. Any property of the club

will be requested and has to be returned to the club within 5 days or the charges value will increase, and not limited to felony charges.

- Program Directors are not permitted to handle financial transactions for the youth program as well. These request from the parents must be referred back to the team coach, manager, office head, treasurer, head of soccer or the president. If not, full legal actions will be upheld.

#### Senior Team Coaches (UPSL, WPSL, USL2, USL W)-

- Are not permitted to handle cash or financial transactions of any kind. All request must be referred back to the Office Head, Treasurer, Head of Soccer, or the President for approval or next steps. This action can only be actioned if approved by the President or Head of Soccer.
  - If is found in violation of this action, this will result in automatic termination and charges being filed. Any property of the club will be requested and has to be returned to the club within 5 days or the charges value will increase, and not limited to felony charges. The club can choose to collect the funds by deducting the funds from payroll or requesting the funds back, but the club does not have to take these measures. Legal actions can be actioned immediately if chosen in the combination of the club property that is in hand. If the club property is returned within 5 days, no action can be taken other then the stolen financials.

#### Youth Coaches-

- Youth coaches are permitted to handle cash under the following guidelines listed below. Coaches are not allowed to handle cash of financial transactions for club dues or fields without the acknowledgement of the Program Director, Head of Soccer, or the President. If club dues are not collected by the club for the rostered players, this could and not limited to deduction of payroll or request of funds. Please see below the areas that coaches can handle funds:
  - Coaches Fee- This is not handled by the club; this is for the coach to arrange with the parents. That's why our cost is lower than the market cost.
  - Tournament Fees- This is arranged by the coach and manager of the program, not handled by the club unless requested.
  - Late Fees and Nonpayment- This will be told to the manager or coach to collect by the President, Head of Soccer or Director. The funds will need to be allocated to the club within 5 days of receiving the funds are legal

actions are not limited. The coach or manager are only able to allocate the funds to payroll or themselves is authorized by the President.

#### Youth Managers-

- Youth managers are permitted to handle cash under the following guidelines listed below. managers are not allowed to handle cash of financial transactions for club dues or fields without the acknowledgement of the Program Director, Head of Soccer, or the President. If club dues are not collected by the club for the rostered players, this could and not limited to deduction of payroll or request of funds. Please see below the areas that coaches can handle funds:
  - Coaches Fee- This is not handled by the club; this is for the coach to arrange with the parents. That's why our cost is lower than the market cost.
  - Tournament Fees- This is arranged by the coach and manager of the program, not handled by the club unless requested.
  - Late Fees and Nonpayment- This will be told to the manager or coach to collect by the President, Head of Soccer or Director. The funds will need to be allocated to the club within 5 days of receiving the funds are legal actions are not limited. The coach or manager are only able to allocate the funds to payroll or themselves is authorized by the President.

This article of amendment has been put in place and is actionable at this time. This is a legal business amendment and will be upheld. Please see amendment 1.2 for the new workforce amendment.

Please see the legal outcomes below:

#### Related to Embezzlement

#### Robbery – ARS 13-1902

Under this statute, robbery is a felony where a person or people:

Use force and threaten others while taking their property and

Do this to make the person give them their property

A person committing embezzlement can do so without using force, but their intent is converting the other person's property to be theirs.

## Theft – ARS 13-1802

Under this statute, theft is described as a crime where a person knowingly takes or uses another person's property without their permission. Embezzlement is theft and punishable as any other felony under ARS 13-1802.

## Criminal Penalties for Embezzlement

Depending on the facts, embezzlement can either be a misdemeanor or a felony. The value of the embezzled property determines the type of chargeable offense. Violating this statute can result in being charged with:

Class 2 felony for amounts of \$25,000 and more attracts a jail term of 12 years and six months and a fine of up to \$1,000 plus surcharges.

Class 3 felony is for amounts of \$4000 but under \$5,000. It attracts a jail term of 8 years and nine months and a fine of up to \$1,000 plus surcharges.

Class 4 felony for amounts of \$3,000 and under \$4,000 and attracts a jail term of 3 years and nine months and a fine of \$1,000 plus surcharges

Class 5 felony for amounts of \$2000, but under \$3,000 and attracts two and a half years of jail time, and a fine of \$1,000 plus surcharges

Class 6 felony is for amounts of \$1,000 but under \$2,000. It attracts a jail term of two years and a fine of up to \$1,000 plus surcharges

Class 1 misdemeanor for amounts under \$1000 and a jail term of six months and a fine of up to \$2,500 plus surcharges

Class 1 misdemeanors are the charges with the least severity and attract a jail term of up to six months in jail and are for smaller amounts of funds involved. The judge can also sentence you to three-year probation instead of jail time. As the value of the embezzled property rises, the severity of the charges goes up.

Class 2 felonies are the worst charges and attract a severe jail term of up to 12 years and six months in jail. If convicted of embezzlement, you are liable to fines and jail sentences. The fine amount and jail sentence will depend on your charges and the case circumstances. Criminal penalties are not the sole embezzlement charges consequences.

In addition to the money you are accused of embezzling, there may be other factors that influence the court's decision on your penalties. Such factors may influence your sentence to become more severe than if it were regarded as just a fraud case.

### 13-1802. Theft; classification; definitions

A. A person commits theft if, without lawful authority, the person knowingly:

1. Controls property of another with the intent to deprive the other person of such property;  
or

2. Converts for an unauthorized term or use services or property of another entrusted to the defendant or placed in the defendant's possession for a limited, authorized term or use; or

3. Obtains services or property of another by means of any material misrepresentation with intent to deprive the other person of such property or services; or

4. Comes into control of lost, mislaid or misdelivered property of another under circumstances providing means of inquiry as to the true owner and appropriates such property to the person's own or another's use without reasonable efforts to notify the true owner; or

5. Controls property of another knowing or having reason to know that the property was stolen; or

6. Obtains services known to the defendant to be available only for compensation without paying or an agreement to pay the compensation or diverts another's services to the person's own or another's benefit without authority to do so; or

7. Controls the ferrous metal or nonferrous metal of another with the intent to deprive the other person of the metal; or

8. Controls the ferrous metal or nonferrous metal of another knowing or having reason to know that the metal was stolen; or

9. Purchases within the scope of the ordinary course of business the ferrous metal or nonferrous metal of another person knowing that the metal was stolen.

B. A person commits theft if, without lawful authority, the person knowingly takes control, title, use or management of a vulnerable adult's property while acting in a position of trust and confidence and with the intent to deprive the vulnerable adult of the property. Proof that a person took control, title, use or management of a vulnerable adult's property without adequate consideration to the vulnerable adult may give rise to an inference that the person intended to deprive the vulnerable adult of the property.

C. It is an affirmative defense to any prosecution under subsection B of this section that either:

1. The property was given as a gift consistent with a pattern of gift giving to the person that existed before the adult became vulnerable.

2. The property was given as a gift consistent with a pattern of gift giving to a class of individuals that existed before the adult became vulnerable.

3. The superior court approved the transaction before the transaction occurred.

D. The inferences set forth in section 13-2305 apply to any prosecution under subsection A, paragraph 5 of this section.

E. At the conclusion of any grand jury proceeding, hearing or trial, the court shall preserve any trade secret that is admitted in evidence or any portion of a transcript that contains information relating to the trade secret pursuant to section 44-405.

F. Subsection B of this section does not apply to an agent who is acting within the scope of the agent's duties as or on behalf of a health care institution that is licensed pursuant to title 36, chapter 4 and that provides services to the vulnerable adult.

G. Theft of property or services with a value of twenty-five thousand dollars or more is a class 2 felony. Theft of property or services with a value of four thousand dollars or more but less than twenty-five thousand dollars is a class 3 felony. Theft of property or services with a value of three thousand dollars or more but less than four thousand dollars is a class 4 felony, except that theft of any vehicle engine or transmission is a class 4 felony regardless of value. Theft of property or services with a value of two thousand dollars or more but less than three thousand dollars is a class 5 felony. Theft of property or services with a value of one thousand dollars or more but less than two thousand dollars is a class 6 felony. Theft of any property or services valued at less than one thousand dollars is a class 1 misdemeanor, unless the property is taken from the person of another, is a firearm or is an animal taken for the purpose of animal fighting in violation of section 13-2910.01, in which case the theft is a class 6 felony.

H. A person who is convicted of a violation of subsection A, paragraph 1 or 3 of this section that involved property with a value of one hundred thousand dollars or more is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except pursuant to section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.



I. For the purposes of this section, the value of ferrous metal or nonferrous metal includes the amount of any damage to the property of another caused as a result of the theft of the metal.

J. In an action for theft of ferrous metal or nonferrous metal:

1. Unless satisfactorily explained or acquired in the ordinary course of business by an automotive recycler that is licensed pursuant to title 28, chapter 10 or by a scrap metal dealer as defined in section 44-1641, proof of possession of scrap metal that was recently stolen may give rise to an inference that the person in possession of the scrap metal was aware of the risk that it had been stolen or in some way participated in its theft.

2. Unless satisfactorily explained or sold in the ordinary course of business by an automotive recycler that is licensed pursuant to title 28, chapter 10 or by a scrap metal dealer as defined in section 44-1641, proof of the sale of stolen scrap metal at a price substantially below its fair market value may give rise to an inference that the person selling the scrap metal was aware of the risk that it had been stolen.

K. For the purposes of this section:

1. "Adequate consideration" means the property was given to the person as payment for bona fide goods or services provided by the person and the payment was at a rate that was customary for similar goods or services in the community that the vulnerable adult resided in at the time of the transaction.

2. "Ferrous metal" has the same meaning prescribed in section 44-1641.

3. "Pattern of gift giving" means two or more gifts that are the same or similar in type and monetary value.

4. "Position of trust and confidence" has the same meaning prescribed in section 46-456.

5. "Property" includes all forms of real property and personal property.

6. "Vulnerable adult" has the same meaning prescribed in section 46-451.

#### 13-1902. Robbery; classification

A. A person commits robbery if in the course of taking any property of another from his person or immediate presence and against his will, such person threatens or uses force against any person with intent either to coerce surrender of property or to prevent resistance to such person taking or retaining property.

B. Robbery is a class 4 felony.