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Why does boss
still employ
worker that he
fired?

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Suits, security fears spur deeper background probes

By **STACY WESCOE**
Business Journal Staff

Employee background checks are on the rise, and those that are being conducted are going deeper than just a Social Security check or a simple drug test, according to those in the industry.



Hlavac

There are several factors leading to the increase in companies conducting background checks, said George C. Hlavac, an attorney who chairs the labor and employment group at Tallman Hudders & Sorrentino in Allentown.

He said part of the trend is just "the nature of our times." But Hlavac said concerns over terrorist activities and new laws and regulations have also impacted

employers' decisions to "dig deeper" when hiring.

The growth "is across the board," said Hlavac. Almost all industries are conducting more frequent and deeper background checks with the health-care industry and financial fields leading the pack, he said.

"In this economy when jobs are fewer and farther between, employers can and will be even more selective," Hlavac said.

One of the largest reasons for the increase, however, is an increase in negligent hiring lawsuits, which Hlavac said have held employers responsible for hiring individuals who commit crimes or even murders on the job.

For instance, Charles Cullen, a Bethlehem nurse now incarcerated for murder, confessed to New Jersey State Police to killing numerous patients during in his career in health care in New Jer-

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Photo by Stacy Wescoe

When checking backgrounds, "You need to ask questions about anything interesting that you find," says Tina Hamilton, president of hireVision, an Allentown HR firm.

Smaller banks: Cash inflow persists

By **BETH W. ORENSTEIN**
Business Journal Correspondent

QNB started seeing a wave of new customers in the

CEO of Embassy Bank for the Lehigh Valley, based in Hanover Township, Northampton County: "Our business has been growing very

bailouts of the big banks and the huge bonuses that some Wall Street firms have been paying their executives.

"I believe it is due to people

Who's right about PLAs? Unions? Merit shoppers?

By **KRISTINE PORTER**
Business Journal Staff

governments use if they feel it benefits the community," Sirianni said.



PHOTO BY TONY SCOTT/PHOTO

Success in checking backgrounds consists of asking the questions that expose the red flags, according to Bob Deese, shown at Any Lab Test Now's Wyomissing location, where he is general manager.

BACKGROUND

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sey and Pennsylvania. In July, Judge Edward D. Reihman of the Lehigh County Court of Common Pleas allowed several civil law suits to proceed against St. Luke's Hospital in Bethlehem, one of the hospitals where Cullen admitted to killing patients.

More recently, an Alabama college professor was charged with allegedly gunning down her colleagues.

Cases such as Cullen's hospital "mercy" killings and the University of Alabama-Huntsville shooting have prompted victims' families to ask why employers didn't conduct better background checks.

Hilavec said there is a bit of a "chicken and the egg" problem when it comes to employers getting the information they need to make smart hires.

"You can't make an employment decision based on arrests (in Pennsylvania.) You can only make decisions based on convictions."

— George C. Hilavec, attorney
Tallman Hadden & Sarantino
Allentown

To make sure a person isn't a liability, he said that a potential employer needs the best information possible before making a hire, including whether or not a potential employee had been a problem in previous jobs. However, previous employers are often reluctant to provide any detailed information, especially negative reviews, for fear of litigation from that individual.

"There's flaws in the system," said Tina Hamilton, president of Hires-Vision, a human resources consulting firm in Allentown.

She noted that in the Cullen case, many of the nurse's former employers were reluctant to comment on the misgivings they had about him. Also, some of those hospitals that hired him never conducted a background check at all, a fact Hamilton called "unfathomable" considering the profession he was in. She said that his ability to continue his string of killings was fostered by that lack of communication.

Hilavec noted that a different set of circumstances was at play in the recent Alabama shootings.

Investigations conducted after Bishop allegedly shot six and killed three of her fellow college professors showed she had previously been the subject of criminal investigations. She had been suspected of placing a

pipe bomb in a rival's mailbox. Also, Bishop had been accused, but never charged, in the shooting death of her brother.

"You can't make an employment decision based on arrests (in Pennsylvania.) You can only make decisions based on convictions," said Hilavec.

Under those circumstances, Hilavec said, an employer couldn't use any prior investigations in making a hiring decision. If the employer did, and the denied candidate found out, a lawsuit could be possible.

Bob Deese, general manager of Any Lab Test Now, Wyomissing, which performs a variety of background checks, said the key lies in knowing how to ask the right questions to get the right answers — and to find any red flags.

Hamilton said one problem that employers often have with hiring is ignoring "red flags" in background checks or in interviews.

"You need to ask questions about anything interesting that you find," said Hamilton. Deese said those conducting checks also have to be wary of the accuracy of information provided by potential hires.

He gave the example of a job applicant who recently provided his Social Security number to a client of Any Lab Test. The number 7 looked like a 1. The person whose Social Security number ended in a one had a clean record. When Deese checked the number with a seven, records showed four DUI (driving under the influence of alcohol) convictions. He said while the number switch could have been "sloppy handwriting," it could have also been an attempt to cover up potential problems.

The individual had been seeking an employment as a delivery driver.

The ability to dig deeper is why firms like his are growing in popularity as companies outsource such tasks to those with a background in performing background checks.

Hilavec, the attorney, noted that former employers do have legal immunity in Pennsylvania when it comes to providing truthful information about a former employee's job performance.

Hamilton, the HR consultant, said those employers need to be careful to provide factual information.

"You can't say, 'she was always late.' That couldn't possibly be true," she said. "What you need to say was, 'she was late 17 times this year.' That is the fact."

But Hilavec said he still advises his clients to be cautious when providing information. He noted that just because a former employer has legal immunity when providing the facts doesn't mean a disgruntled former employee can't sue.

"They won't win, but you don't recover those legal costs and the time," said Hilavec.

BANKS

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ernment guarantees and growing bigger. Aided by political strategist Alexis McGill, filmmaker/author Eugene Jarecki and Nick Penniman of the HuffPost Investigative Fund, the group made a video and launched its grassroots "Move Your Money" campaign online.

According to ABC News, as of the first week in February, at least 3 million people had participated in the consumer campaign and moved their money from the large, national banks to community banks in their area. They could sign-up on the Web site.

The American Banker recently reported that Huffington's campaign had more friends on Facebook than any of its targets.

Lobach hadn't heard of Huffington's campaign but, he said, "hopefully, that accounts for some of the new accounts we've been seeing, too." Embassy Bank, he said, never got involved with sub-prime loans, and never needed nor took government money — a fact that was part of an advertising campaign for the bank.

"... With the bigger banks, you're seeing a movement toward additional fees and the elimination of free checking. We're committed to free checking."

— Donald Lobach, CEO
Embassy Bank for the Lehigh Valley

However, Lobach said, probably another reason that people are moving their money to community banks is that they want to avoid the fees that big banks are charging their customers.

"We don't believe in a lot of fees," he said. "We have free checking for life with a minimum average balance of \$500, and that's been very, very popular. Now with the bigger banks, you're seeing a movement toward additional fees and the elimination of free checking. We're committed to free checking."

It's nice, Lobach said, to see that people are "looking to buy local, and we try to do that every way we can and to support our local economy and our Lehigh Valley. When people bank with us, our money stays in the Valley, and we're proud of that."

"If you look at our market share numbers from June '08 to June '09, we saw a very nice increase in Northampton County and in Lehigh County."

Gerry Nau, CEO
Lafayette Ambassador Bank based in Easton

Schafer couldn't say whether the Huffington's campaign has impacted

QNB either. "We haven't heard any customers comment about that, but we have been experiencing the move-your-money phenomenon before it became a movement," he said.

Nau, of Lafayette Ambassador, couldn't comment on the Huffington effort, but said Lafayette "never dabbled in subprime either." He said he believed that people were moving their money to it because "they want institutions that are safe and sound and that have strong capital and are well-managed."

The larger banks had no comment. Natalie Ripert, a spokeswoman for Citigroup Inc., one of four of Huffington's targets, said she had no comment, but added, "We're aware of it and watching it as everyone else is."

The others that Huffington is targeting are Bank of America, Wells Fargo and JPMorgan Chase & Co. Jim Baum, a spokesman for Wachovia in Philadelphia, which is now part of Wells Fargo, said he, too, was aware of the Move Your Money campaign, but couldn't comment on it.

Baum added that Wachovia looks at its size as an opportunity for customers to build relationships that they're not going to find at smaller banks.

Two area business professors agreed that grass roots consumer movements can be effective, but one thought not in the banking industry.

"Hopefully, this campaign will make the big banks realize that they have to take care of their customers if they want to keep them," said Denise Ogden, associate professor of marketing at Penn State Lehigh Valley.

If enough people were to move their money, the big banks would have a lot to lose, Ogden said, because many people use their primary banks for other services such as mortgages, home improvement loans and car loans. "This means big money in the long run," Ogden said.

However, she said, no matter how angry some consumers may be over what happened, the costs associated with changing may keep them from doing so.

Chris Cocozza, chairman of the business department at Drexels University in Center Valley, said grass roots campaigns have had some success getting some retailers to change their unfair labor practices. In the mid-'90s, for example, customers were asked to boycott Walmart after it was reported that sweatshop labor in Honduras was used to make clothes for the Kathie Lee Gifford line that it sold.

However, he said, such movements would be very unlikely to have an effect on the banking industry because larger customers aren't able to switch.

While consumers can easily boycott retailers whose practices they don't like and buy elsewhere, Cocozza said, "larger employers or businesses aren't going to move their assets to a credit union or smaller bank because they can't serve their banking needs."

If anything, Cocozza said, the Move Your Money movement could have a positive impact on smaller, community banks, but it won't have a negative impact on bigger banks.

The more effective way for consumers to express their unhappiness in this case, Cocozza said, would be for them to put pressure on the politicians. "Political pressure would have a much greater effect than a grass roots movement