



What To Do If Your Employee Is On The Ashley Madison "List?"

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Tim Scott's article "What To Do If Your Employee Is On The Ashley Madison "List?" was featured in *BIZ New Orleans* on August 31, 2015.

The recent hacking of AshleyMadison.com, a website designed to connect married individuals with others for the purpose of extra-marital affairs, has publicly humiliated professionals across the country.

As a business owner, what should you do if you find out that one of your employees has been outed as an Ashley Madison customer?

- Can you fire him or her?
- Do you want to fire him or her?
- Does it matter that the information was brought to light through an illegal hacking?

In the article, Tim offers up advice to employers on what to do if their employee is on the Ashley Madison "List".

He said the decision to fire an employee because they are an Ashley Madison customer depends on "reputational risk."

"If your organization provides marital counseling, then the employee's membership, now known to the public, could affect your organization's reputation," Tim said. "If the employee is one of the faces of the company, an employer may not want him or her representing the company after a scandal such as this."

If you want to fire an employee as a result of a personal decision, such as joining Ashley Madison, Scott advises, in Louisiana, employees are employed on an at-will basis and can be fired at any time, with or without prior notice, for any or no reason provided that the termination does not violate one of the many statutory protections found in the law or an existing employment contract.

"If an employer does decide they want to terminate an employee for being a customer of the Ashley Madison or any other type of off-duty conduct, it should first determine whether that activity is 'protected' or not," he said.

Tim said protected off-duty conduct in Louisiana includes political activities (including supporting or opposing a particular candidate) or smoking or using tobacco products. He also said an employer cannot terminate an employee for pursuing certain legal claims or filing or threatening to file a complaint against an employer with most state and federal agencies (whistleblowing).

He said off-duty conduct that is not protected includes an individual who chooses to go on a website designed to enable them to cheat on his or her spouse, legal marijuana use, arrests/ convictions, gambling, drinking, Mardi-Gras related activities, etc.

To read the full article, please visit [*Biz New Orleans*](#).

Related People



Timothy H. Scott
Partner
504.529.3834
Email