



## Ethics Cases

**7.9 Ethics** Leo Shaw, an attorney, entered into a partnership agreement with three other persons to build and operate an office building. From the outset, it was agreed that Shaw's role was to manage the operation of the building. Management of the property was Shaw's contribution to the partnership; the other three partners contributed the necessary capital. Ten years later, the other partners

discovered that the loan on the building was in default and that foreclosure proceedings were imminent. Upon investigation, they discovered that Shaw had taken approximately \$80,000 from the partnership's checking account. After heated discussions, Shaw repaid \$13,000. When no further payment was forthcoming, a partner filed a civil suit against Shaw and notified the police. The state filed a criminal complaint against

Shaw. Subsequently, Shaw repaid the remaining funds as part of a civil settlement. At his criminal trial Shaw argued that the repayment of the money was a defense to the crime of embezzlement. *People v. Shaw*, 10 Cal. App. 4th 969, 12 Cal.Rptr.2d 665, Web 1992 Cal.App. Lexis 1256 (Court of Appeal of California)

1. What is necessary to prove the crime of embezzlement?
2. Did Shaw act ethically in this case? Would your answer be different if he had really only "borrowed" the money and had intended to return it?
3. Is Shaw guilty of the crime of embezzlement? Why or why not?