

## **The Flip Side of New Jobs: New (Information) Leaks**

Jobs, jobs, jobs. Consider it the theme for 2011 — one President Barack Obama stressed in comments he made last month during his visit to GE Energy in Schenectady and in his State of the Union address. As of December, there were 14.5 million unemployed Americans, and many of them are likewise demanding jobs, jobs, jobs.

However, labor statistics are indicating that frustrated and ambitious employees — emboldened by ameliorating economic conditions — are increasingly quitting their jobs. Some are pursuing work elsewhere, and they are taking with them a wealth of knowledge of sensitive information that could leave businesses vulnerable to leaks.

Just as a winter thaw can reveal leaks in your roof, economic thaws can likewise reveal leaks in businesses' procedures and policies for protecting classified information and trade secrets. Such a thaw appears to be underway with the U.S. Bureau of Labor Statistics reporting that 1.95 million Americans quit their jobs in November, up 6 percent from a year earlier. The November turnover statistics marked the fourth consecutive month in which more Americans quit their jobs than were laid off.

The December 2010 conviction of Sergey Aleynikov, the former Goldman Sachs programmer who illegally uploaded a proprietary source code the investment bank used for ultra-fast trading, highlights the danger former workers can pose on employers. Aleynikov, whom a federal jury found guilty on two charges of theft of trade secrets and transporting stolen property, uploaded the code three days before he left Goldman, according to the New York Times.

The Goldman case, coupled with the posting of classified diplomatic and military documents on the Wikileaks Web site, demonstrate how in our digital age highly sensitive information can get past the most formidable security measures. However, that does not mean employers should stand by idly and risk having outgoing employees take customer lists, financial documents or other classified documents to competitors.

Now is the time for employers to be shoring up — or implementing — policies and procedures geared toward preventing current and former employees from improperly disclosing sensitive business information or using it to their own personal advantage. Topping the list these policies are confidentiality agreements, under which employees, usually new hires, agree not to reveal to outside sources certain information.

Other important policies include non-solicitation agreements, under which employees promise not to "poach" customers they met while working for an employer, and non-competition agreements, under which employees are forbidden from working for an employer's competitors for certain duration.

Technological limitations and human error will make security systems prone to leaks, but policies intended to deter the unwanted flow of information outside of a business do not need to be hampered by vague language and loopholes. These policies and procedures should also

be reiterated to both current and outgoing employees. Businesses concerned about loopholes in their existing employment policies or wanting to implement air-tight employment policies should contact a lawyer who specializes in corporate law.