

Role of the Forensic Accountant/Auditor (FA) in the prevention and detection of business fraud

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Forensic refers to something pertaining to or used in a court of law. However, in practice, forensic typically refers to the method of obtaining evidence related to any investigation, not just a crime or legal matter. In the latter context, the forensic financial expert investigates and analyzes financial evidence with the goal to provide expert testimony on financial damages for parties in litigation. The definition of forensic accounting is changing in response to the growing needs of corporations. Bologna and Lindquist (in *Fraud Auditing and Forensic Accounting*, 1995) defined forensic accounting as "the application of financial skills, and an investigative mentality to unresolved issues, conducted within the context of rules of evidence.

As a discipline, it encompasses financial expertise, fraud knowledge and a sound knowledge and understanding of business reality and the working of the legal system." This implies that the forensic accountant should be skilled not only in financial accounting, but also in internal control systems, the law, other institutional requirements, investigative proficiency, and interpersonal skills.

Corporations can rely on these skills for developing a consistent system of corporate governance, disseminating such information within and outside the company, ensuring that governance policies and objectives are interwoven into the internal control system, setting up fraud prevention systems, and investigating any existing fraud.

The role of the forensic accountant has expanded significantly during the last several years for many reasons, including the requirement for greater scrutiny on corporate governance brought about by the Sarbanes-Oxley legislation and the widespread recognition of the risks and prevalence of financial fraud in today's business environment.

As a result, forensic financial specialists are usually retained to support special investigations related to a broad range of subjects. This can include the financial impact of marketplace events, such as intellectual property infringement and anti-trust actions, financial reporting fraud, asset impairment

and business valuation.

These investigations occur in contexts such as civil litigation, alternative dispute resolution, insurance claim adjustment, internal fraud investigation, securities class action and internal corporate investigations. The questions posed to the forensic financial expert are increasingly more complex, requiring skill sets beyond a typical understanding of financial records and Generally Accepted Accounting Principles (GAAP).

Knowledge of forensic accounting is only part of the equation. More often, a team of forensic financial specialists with a variety of skill sets is needed to address the many challenges posed by a case. For example, the logistics of finding data in numerous locations such as tape drives, personal computers and BlackBerry wireless devices require forensic technology specialists who are familiar with electronic data systems and who can identify and ferret through electronic storage devices to find case critical documents.

An allegation of market manipulation often requires an understanding of economics, finance and how financial investment firms operate to fully document issues of causation and actual loss sustained. Permanent impairment of a company's value due to an alleged act will necessitate the use of accepted valuation skills.

This complexity has created a need for a multidisciplinary profession of "Financial Forensic Experts" who are proficient in accounting, finance, economics, computer technology, statistics, valuation and legal processes. Specific industry expertise is also an important element in the equation, making this team a group of highly-specialized experts indeed.

The investigative forensic team rarely has access to all of the relevant information related to a case. Therefore the ability of the team to respond with absolute certainty is not always possible. Manipulation of records, destruction of evidence, time limitations on completing the investigation and restrictions imposed by the litigation investigative process by the parties involved are some of the reasons that certain data cannot be found. With this in mind, the forensic team must utilize a number of skills and techniques to reconstruct or

uncover the facts.

As many damage calculations require construction of a theoretic reality "but for the event," the team must also be adept at working through the facts and a hypothetical situation as if no damage event occurred. The complexity of the financial issues posed in litigation and forensic investigations requires a very broad, multidisciplinary approach to the investigative and damage calculation phases of the legal process.

The new professional field of financial forensics and the variety of experts that fill this bill provide corporations and attorneys with the tools required to respond to complex litigation and dispute resolution.

Types of fraudulent acts

Fraud can be committed through many media, including mail, wire, phone, and the Internet (computer crime and Internet fraud). The international dimensions of the web and ease with which users can hide their location, the difficulty of checking identity and legitimacy online, and the simplicity with which hackers can divert browsers to dishonest sites and steal credit card details have all contributed to the very rapid growth of Internet fraud.

Types of criminal fraud include:

- Advance-fee fraud
- Bait and switch
- Bank fraud to obtain money, assets, or other property owned or held by a financial institution
- Bankruptcy fraud
- Benefit fraud, committing fraud to get government benefits
- Counterfeiting of currency, documents or valuable goods
- Charlatanism
- Confidence tricks such as the 419 fraud and Spanish Prisoner
- Creation of false companies or "long firms"
- Embezzlement, taking money which one has been entrusted with on behalf of another party
- False advertising

- False billing
- False insurance claims
- Forgery of documents or signatures,
- Franchise fraud where the real profit is earned, not by the sale of the product, but by the sale of new franchise licenses.
- Fraud upon the court
- Health fraud, for example selling of products known not to be effective, such as quack medicines,
- Identity theft
- Impersonation
- Impostery
- Insurance fraud
- Investment frauds, such as Ponzi schemes and Pyramid schemes
- Marriage fraud to obtain immigration rights without entitlement
- Moving scam
- Religious fraud
- Rigged gambling games such as the shell game
- Securities frauds such as pump and dump
- Tax fraud, not reporting revenue or illegally avoiding taxes. In some countries, tax fraud is also prosecuted under false billing or tax forgery

Intrinsic fraud is an intentionally false representation that goes to the heart of what a given lawsuit is about, in other words, whether fraud was used to procure the transaction. (If the transaction was fraudulent, it probably does not have the legal status of a contract).

Intrinsic fraud is distinguished from extrinsic fraud which is a deceptive means of keeping a person from discovering and/or enforcing legal rights. It is possible to have either intrinsic or extrinsic frauds, or both.

During a trial, perjury, forgery, and bribery of a witness constitute frauds that might have been relieved by the court. Such actions will usually lead to a mistrial being declared and after any penalties for the involved parties a new trial will take place on the same matter.

Two types of intrinsic fraud in contract law are fraud in the inducement and fraud in the factum.

Fraud in the factum is a legal defense, and occurs where A signs a contract, but either does not realize that it is a contract or does not understand the nature of the contract,

because of some false information that B gave to A. For example, if John tells his mother that he is taking a college course on handwriting analysis, and for his homework, he needs her to read and sign a pretend deed. If Mom signs the deed believing what he told her, and John tries to enforce the deed, Mom can plead "fraud in the factum."

Fraud in the inducement is an equitable defense, and occurs when A signs a contract, knowing that it is a contract and (at least having a rough idea) what the contract is about, but the reason A signed the contract was because of some false information that B gave to A. For example, if John tells his mother to sign a deed giving him her property, Mom refuses at first, then John explains that the deed will be kept in a safe deposit box until she dies. If Mom signs the deed because of this statement from John, and John tries to enforce the deed prior to Mom's death, Mom can plead "fraud in the inducement."

Forensic accountants utilize an understanding of economic theories, business information, financial reporting systems, accounting and auditing standards and procedures, data management & electronic discovery, evidence gathering and investigative techniques, and litigation processes and procedures to perform their work. Forensic accountants are also increasingly playing more proactive risk reduction roles by designing and performing extended procedures as part of the statutory audit, acting as advisers to audit committees, fraud deterrence engagements, and assisting in investment analyst research.

In criminal law, a fraud is an intentional deception made for personal gain or to damage another individual; the related adjective is fraudulent. The specific legal definition varies by legal jurisdiction. Fraud is a crime, and also a civil law violation. Defrauding people or entities of money or valuables is a common purpose of fraud, but there have also been fraudulent "discoveries", e.g., in science, to gain prestige rather than immediate monetary gain.

Forensic Accountant (FA) may work in collaboration with a legal team, with investigators from the police department, or with other law enforcement professionals.

Forensic Accounting in Other Criminal Cases While forensic accounting skills are most relevant to finance-based cases, a Forensic Accountant's (FA) knowledge is sometimes used in investigation of other crimes. For example, when it is necessary to prove a suspect's involvement by following the trail

of a payment for an illegal act, a Forensic Accountant (FA) may take the lead on that aspect of the case.

In rarer situations, a Forensic Accountant (FA) may be asked to help determine whether or not a suspect is under financial pressure, which can be part of a legal strategy when showing adequate motivation for a crime. In these kinds of cases, a Forensic Accountant (FA) may be called as an expert witness to interpret and explain data before a jury. Forensic Accounting at a Federal Level Forensic Accountants (FAs) working for the federal government may be tasked with even greater responsibility, and more complex projects, than those serving in other private or public arenas.

According to spokespeople at the Federal Investigation Agency (FIA), Forensic Accounting is a key part of the FIA's strategy in cases as diverse as criminal matters, counterterrorism, and even foreign counterintelligence investigations. Forensic Accounting in the Private Sector Forensic Accountants (FAs) are also employed by businesses that are seeking to identify and prevent fraud within their own companies, or with business partners.

A Forensic Accountant (FA) may be employed by a corporation that wishes to prove it has clean practices to its stockholders, or may be asked to investigate a potential partner before a merger or acquisition takes place. Forensic Accounting encompasses the process of auditing to recognize and investigate financial fraud occurring in an organization.

There is a growing need among law enforcement professionals, small business owners, and department managers to better understand basic forensic accounting principles, how different types of fraud occur, and how to investigate a fraud that is detected in a way that maximizes the chances of successful prosecution of the perpetrator.

Executives, managers, criminal investigators, and prosecuting attorneys all require a basic understanding of accounting principles and investigative techniques to protect organizations from fraud. Forensic Accounting and Fraud Investigation for Non-Experts break down this knowledge, which is invaluable for better insight into where an organization is most susceptible to fraud as well as to a more productive investigation process when fraud is suspected.