

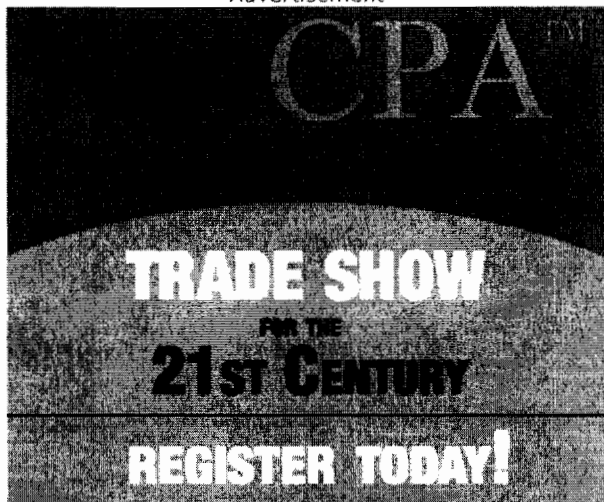
## Forensic Accounting: Exponential Growth

*The work varies widely, the credentials to practice are sophisticated, unique marketing is needed, but the engagements are very lucrative.*

By **Jeff Stimpson**

(Feb. 1, 2007) - "Fraud is a growth industry, unfortunately. There's never been a shortage of bad people doing bad things," says Andrew Bernstein, former director of forensic practices at Big Four firms and director of forensic and valuation services with Miami-based Berkowitz Dick Pollack & Brant. "Regulatory agencies have been more active than ever in the last five years identifying and rooting out not only the fraudsters, but identifying the potential for fraud to exist."

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Though "forensic" is a broad term, according to Michael DiGiacomo, director of consulting at Grassi & Co., Lake Success, N.Y., different engagements that would require a forensic accountant include investigating fraud, investigating the books and records relating to a shareholder or partnership dispute, or preparing damage analysis and testifying before an arbitrator, mediator, or court. "Our engagements are much more focused on specific allegations or events, compared with an auditor offering an opinion on a company's financial statements," he adds.

"Our role is to verify, corroborate, or disprove financial allegations. The forensic accountant must understand the transaction trail, and know how to identify sources of financial and other information to evaluate

conflicting information sources," says Paul McPherson Brunner, CEO of Denver-based RGL - Forensic Accountants & Consultants.

"Forensic accountants untangle events and details that are tangled by design," says partner Barry Mukamal of the forensic accounting practice at Miami-based Rachlin Cohen & Holtz. Adds Bernstein, "You're trying to piece together a puzzle where you don't have the picture on the box to know what it's going to look like. The facts are not settled, and actually it's the facts that are in dispute."

"I liken it to 'CSI' or 'Law and Order,'" says Terry McCarthy, audit partner with Green & Seifter, in Syracuse, N.Y., "but instead of figuring out the trajectory of a bullet, you're trying to find out how a transaction occurred."

### Runs the Gamut

Many firms maintain specialist forensic accounting departments. Within these groups, there may be further sub-specializations such as insurance and personal injury claims, fraud, construction, or other types of audits. Many CPAs in this field are Certified Fraud Examiners (CFEs), a designation from the Association of Certified Fraud Examiners that includes, other requirements, passing a four-part exam, and maintaining CPE on anti-fraud techniques.

Says Martin Leventhal, partner at New York-based Rosen Seymour Shapss Martin & Company, "The

increasing awareness of a new type of auditor has stimulated inquiries to what we do and how we do it, and led to more engagements."

"We do anything from a fire department that's had \$2,000 stolen from their treasury to several million-dollar engagements," McCarthy says, adding that the firm frequently gets referrals from trustees of entities that "went bankrupt pretty quickly." Businesspeople are also becoming generally more aware of fraud, he adds, and less shy about whistle-blowing.

"We deal with all types of industries, from automotive to entertainment to environmental to real estate," says Stefano Vranca, director of litigation support and forensic services at Stonefield Josephson in Los Angeles. "Our work is truly a full-blown investigation. We pursue the source of trouble and investigate it down to the smallest detail, including imaging computers, interviewing outside vendors, everything you could imagine to find the troubled area." Indeed, Brunner adds, forensic tech professionals use various tools to search computer networks for files containing key words, and hard drives to preserve, investigate, and analyze electronic document and data files.

Elizabeth LaCorte, supervisor at the Princeton, N.J.-based Mercadien Group, says forensic accounting is "a significant practice niche," as well as a resource for other practice groups within the firm. "We also assist other firms by providing such services when independence issues prevent that firm from doing so," she adds.

### **Typical Practices**

Forensic work covers a lot of areas. The work of Brunner's firm can include work on first party property insurance; fraud and calculation of economic damages; litigation ("Both consultative, and as reporter of facts through expert testimony," Brunner notes); business valuations; fidelity bond investigation, restitution, and recovery; or vendor risk reviews/internal control consulting. "Business valuation and fixed asset appraisal are natural complements to the forensic accounting skills employed in litigation," he adds. "Often, damages are best quantified through financial techniques unique to business valuation, rather than accounting."

Glenn Newman, principal in charge of the forensic and litigation services department at Parente Randolph, in Philadelphia, says, "Our services consist of two major sub-categories: litigation services, and investigative-type services. Litigation services generally relate to our professionals being retained initially as a consulting expert, and often ultimately as a testifying expert. Most of the litigation-related assignments generally require an expert report on the economic damages suffered."

Employee theft, internal controls, and shareholder disputes and buyouts are aspects of the forensic accounting practice at Akron, Ohio-based Brockman, Coats, Gedelian & Co., according to Ray Lampner, a senior manager in the firm's valuation and litigation support practice. According to Richard Millman, forensic shareholder, the forensic practice at Atlanta-based Tauber & Balsler focuses on, among other areas, damages including lost profits and business values caused by contract breaches and other torts, and white-collar crime. Laurence Thoma, partner and director of firm litigation, valuation and forensic accounting services at Red Bank, N.J.-based WithumSmith+ Brown, also does such services as critiques of other expert reports, and assistance to federal and local government in criminal investigations.

Robert Overbaugh, consulting services partner in charge of the litigation and claims services practice at Pittsburgh-based Sisterson & Co., says, "Forensic accounting is often thought of, in somewhat narrow terms, as dealing with the investigations of fraud or financial misconduct. We think of forensic accounting in broader terms, and perform engagements in most areas in which attorneys use financial experts in litigation and disputes."

Rebekah Smith and Gary Moll, directors of litigation support services at Columbus, Ohio-based GBQ Partners, say their firm's forensic work is diverse. "Clients approach us for cases involving a dispute of \$5,000 all the way up to \$25 or \$50 million. We've been engaged to trace assets for domestic matters, for example, and those engagements ranged from assisting a client prove a \$10,000 separate property claim all the way up to tracing \$24 million worth of non-marital stock options," they say. Michael Kridel, partner at Daszkal Bolton in Boca Raton, Fla., reports that his firm's practice is primarily pre- and post-judgment

matrimonial, and commercial affairs such as shareholder/partner disputes, embezzlement, and criminal tax. "Average per- case fees are \$50,000, though we've had several that exceeded \$100,000, and one that was nearly \$400,000," he adds.

Manager Jeffrey Aucoin says Postlethwaite & Netterville in Baton Rouge, La., has in the past year organized "the P&N Fraud Center," and has six CFEs for investigations, as well as varied IT professionals to help with data extraction. "Forensic investigations don't differ greatly from other engagements," he says, though "sometimes clients are more emotional in meetings, and interviewing the accused party is more stressful."

## Types of Engagements

Darryl Neier, partner in the forensic accounting/litigation support group of Livingston, N.J.-based Sobel & Co. says most engagements deal with complex issues such as audit committee investigations, computer forensic investigations, white-collar and tax-defense work, financial statement fraud, monitorships, studies to identify fraud, waste and abuse, and expert testimony." Raymond Dunkle, also a senior manager in valuation and litigation support services at Brockman, Coats, Gedelian, says business valuations in the courts typically are the result of a divorce case, "although they can come into play in the tax court, too. Fraud investigations involve identifying and quantifying damages. Economic damage calculations can involve estimating damages or critiquing another expert's analysis." Mukamal says engagements can also involve construction delay damages; determination of statutory damages in trademark or patent infringement cases; causation relating to a failed business enterprise; lender liability; and identification of accounting malpractice.

Leventhal says the types of engagements his firm is involved in include shareholder and partnership disputes; calculation of economic losses as a result of malpractice or wrongful termination; insurance claims such as business interruption; employee dishonesty, measuring the theft or expense of abuse; allegations of corporate earning misstatements; helping attorneys representing clients in marital disputes or criminal fraud accusations. Overbaugh adds that engagements might include assessments of controls over management compensation, benefits and perquisites, or controls exercised by the board of directors or important committees, and reviews of controls in such areas such as employee travel and entertainment expense reporting, corporate credit card usage, cash disbursements, and wire transfers, among other areas.

Principal David Glusman of Bala Cynwyd, Pa.-based Margolis & Company's forensic accounting and litigation support services group says a difference between the typical A&A practice and a forensic practice is "the difficulty of staffing and time management. The source of nearly all of this work is litigation attorneys themselves often subject to the issues of various timing constraints of the court. Occasionally, the retaining attorney will recognize the need for accounting expertise early, and the forensic accountant will have ample time. More often, however, attorneys wait until they are certain that the case won't be dismissed, or they realize the case won't settle without an expert's report, or that the deadline for completing expert discovery is approaching."

## The Art of Interviewing

Interviewing witnesses is unique to forensic accounting, notes Bill Brown, forensic accountant with Weaver and Tidwell, located in Dallas.

"Rather than ascertaining the accuracy of account balances, forensic accountants work from the perspective that the information is misstated. We presume the culprits have anticipated our moves, and provided information designed to throw us off. You must be able to read witnesses quickly, and be astute at identifying bias, motive, and intent."

"You're being called into a situation that is complex, where there's a concern for great financial loss," says Andrew Bernstein, director of forensic and valuation services with Berkowitz Dick Pollack & Brant, in Miami. "The stakes are high. The tension is high. It takes more than just accounting skills to navigate these waters."

Terry McCarthy, audit partner with Green & Seifter, in Syracuse, N.Y., offers pointers for interviewing. "I'll often ask an interviewee, 'Is there anyone else in the organization I should speak to?' This gives relief, in that they've helped you, but haven't ratted anyone out."

The receptionist is also one of the most valuable people in any organization a forensic accountant is investigating. "She or he knows who comes and goes, who gets what calls," says McCarthy.

Atlanta-based Matson, Driscoll & Damico focuses on insurance-claim accounting and litigation services, according to John Damico, managing partner. "Within those two general areas, we concentrate for insurance on property and casualty and general liability claims, and for litigation services we are typically engaged by lawyers on subrogation, fraud, business valuation, and commercial litigation," he says.

"A forensic engagement continually changes," LaCorte says. "There can be many stops and starts, and an engagement can last well over a year."

### **Qualifications and Specialization**

"The days are over," says Newman, "for the practitioner who spends a variety of time performing audits, preparing tax returns, and the like, to handle the once-a-year forensic investigation." In addition to the CFE designation, the Certified Forensic Financial Analyst (CFFA) designation is from the National Association of Certified Valuation Analysts, which also has a Certified Fraud Deterrence Analyst (CFD) certification geared more towards fraud deterrence. Professionals doing valuations would have to have one or more of several designations, such as Accredited in Business Valuation (ABV), Certified Valuation Analyst (CVA), or Accredited Senior Appraiser (ASA), adds Lampner.

"Because the nature of these engagements requires experienced auditors who have been exposed to many different types of systems, the staff is well versed in internal controls and their implementation within an organization," says Alan Litwin, managing director of Providence, R.I.-based Kahn, Litwin, Renza & Co. "The ideal staff member has seen many different types of systems, and can quickly identify if procedures are being breached."

Christopher Kyanko, a manager at Hertzbach & Company in the Owings Mills, Md.-based firm's litigation consulting group, and Stephen Oliner, a Hertzbach shareholder and a senior member of the litigation consulting group, counter that although qualification needs vary by engagement, "an experienced CPA possesses many of the skill sets needed for this work, and may be sufficient for certain types of engagements. For many contract disputes, divorce work, shareholder disputes, and litigation-related engagements, specialized training is needed. Sometimes only solid understanding of accounting or tax is required, especially with smaller companies that have less complexity."

Weaver and Tidwell's forensic practice is anchored by two professionals with experience that includes the FBI, federal and state regulatory agencies, and the fraud investigations practice of a Big Four firm.

Neier says his firm's group uses "the best skills of accountants and law enforcement. Out of a group of 13, nine have law enforcement experience from the NYPD, district attorneys' offices, FBI, IRS-CID, and the U.S. Postal Service. Many CFEs have backgrounds in law enforcement, McCarthy notes. "Being an attorney or JD is also a big plus," Thoma adds.

LaCorte says the skills for this niche can't be taught. "The volume of documents, or the lack thereof, can cause frustration. Sometimes the connections are found weeks or months later."

Millman's staff is comprised primarily of CPAs and professionals with other advanced degrees or designations, including CVA, CFFA, and CFE. Within Damico's firm are eight professional designations, and "most if not all of our partners and managers have considerable experience as expert and/or consulting witnesses in courts around the world," he says. Leventhal also notes that the AICPA and the ACFE offer courses that teach techniques of fraud examinations. Most competent fraud examiners use a combination of CPE and "field-honed" skills, and all agree that in forensic work there is no substitute for experience.

Says Overbaugh, "Credentialing is important when it comes to being accepted as an expert before the courts. Specialization in a particular area can increase the weight placed on the work of a practitioner." Professional staff also need knowledge of applicable legal rules and standards, legal precedents applicable to specific types of cases, such as patent infringement or divorce, for instance, and accepted methodologies. Thoma also notes the need for "very good people skills for interviewing, speaking skills for testimony, deposition, and settlement negotiations, and excellent writing skills," the last to translate complex financial data into simple terms that people uneducated in this field can understand, such as juries and judges.

Rachlin's niche practice has four partners and four principals who specialize in forensic accounting issues, Mukamal says, as well as a computer forensics team that locates, preserves, and analyzes data.

"Our team has a background in all disciplines: tax, audit, internal controls, M&A, personal financial planning, business valuation methodologies," he says. "They also have a healthy dose of professional skepticism."

Soft skills count. A forensic accountant must be curious and patient, Leventhal says, as well as determined and creative. They must also be a good listener and effective communicator of findings, as well as have an open mind and sound judgment. Also useful is a solid understanding of the inter-relationship between the income statement and balance sheet accounts, and a thick skin and even temper for when one is cross-examined by opposing counsel, says Gayle Bolinger, senior manager with Brown Schultz Sheridan & Fritz in Camp Hill, Pa.

### **Focus on Referral Sources**

Lynn Basconi, senior manager of the audit and accounting services department at Cleveland-based Ciuni & Panichi, says her firm has been marketing the niche thru print ads and speaking engagements primarily, familiar marketing tools for firms. But often this marketing is "dramatically different," Kridel says. "The client who pays the fees is not the real client. That is the referral source, ordinarily an attorney. Marketing tends to be done on a face-to-face basis, and often it's the professional whose name was in front of the attorney last who receives the referral." Many attorneys use primarily one or two forensic accountants for all expert testimony, which can often make it extremely difficult to market to these attorneys, he also points out. "Another twist is that marketing of experts diverges from marketing of the firm."

Most companies, when they suspect fraud, make the first call to their attorney, Smith and Moll point out, adding, "Litigation attorneys generally hire us mid-litigation, looking for someone as an expert witness or as a rebuttal to their adversary's expert witness." Adds Dunkle, "We maintain relationships with several law firms that specialize in business litigation, divorce, and estate planning, and provide free continuing legal education about twice a year. While attendance at CPE events is typically limited to about five or six attorneys, our primary objective is the name recognition that comes with the 300 or so invitations mailed." Legal journals are another excellent forum for marketing, says Bill Brown, forensic accountant with Weaver and Tidwell in Dallas.

"We promote our practice as one focused on providing the correct answer, as opposed to one serving as a client advocate," Lampner points out, and Damico's firm markets to insurance companies, independent adjusting firms, subrogation, and all types of lawyers who require the quantification of damages in commercial litigation. Margolis's forensic accountants author articles of interest to litigators, and include them in the newsletter *The Legal Write*, which mails to a select list of litigators in the firm's local Philadelphia area, and is posted on the firm's Web site. In the area of business valuations, Margolis also recently instituted a pay-per-click campaign through various search engines on the Internet, and the firm's marketing director works with the business valuation professionals to contact estate and trust attorneys on a regular basis for breakfast or lunch meetings. Vranca adds that most firms' work usually stems from personal contacts and networking events, and adds that SJ conducts a monthly mixer with a few of the firm's partners and some 200 to 300 invited COOs, CFOs, attorneys, and others.

"Other CPA firms can also be important marketing contacts, since they may refer work to firms like us because they don't perform these types of services, or have relationships that preclude them from providing these services," Overbaugh says.

The best marketing also stems from results, Thoma says. "It's not uncommon to do a good job on a case and have opposing counsel hire you for one of their next cases."

### **Hourly Billings Predominate**

Most firms bill hourly, at somewhat standard rates, for forensic work. "We sometimes provide budgetary estimates of the range of fees for a project or a phase of a project," Overbaugh adds. "We rarely perform this work under a fixed-fee arrangement, because it's very difficult to estimate the time that will be