

Ken Froese, Senior Managing Director, Froese Forensic Partners

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BIO/SUMMARY

Ken Froese, CA•IFA, FCFI has practiced investigative and forensic accounting, including financial investigations, quantifying economic loss, and evaluation of auditor performance, since 1990. He has worked extensively in fraud investigations, including working with federal, provincial and municipal police forces and numerous investigations related to insolvent companies, where alleged fraudulent conveyances or wrongdoing were alleged in the process leading up to the date of insolvency. His experience in loss quantification includes engagements related to shareholder disputes, matrimonial matters, personal injury, rogue brokers, contract disputes, construction and real estate development contract disputes, and other matters requiring loss quantification expertise.

Ken has investigated fraud allegations against professionals (including lawyers and accountants), senior executives, CFO's and accounting personnel, and employees. Investigations have included public and private companies, unions, charities, government agencies, and individuals. The engagements often include assistance in quantifying losses attributed to the fraud, assisting in preparing insurance claims, tracing and recovering assets, and advising on fraud prevention strategies. Ken also teams with accounting experts in relation to auditor performance lawsuits.

PROFESSIONAL EXPERIENCE

Criminal Experience

Criminal forensic experience includes the following:

- Assisted the OPP Proceeds of Crime Unit in relation to an investigation involving alleged organized crime activities that included conspiracy to commit murder and drug-related and proceeds of crime related offenses;
- Responsible for providing forensic accounting support on three investigations carried out by the Anti-Rackets Branch of the Ontario Provincial Police and four investigations for the Fraud and Forgery Unit of the Toronto Police Services and a joint Task Force investigating alleged municipal government corruption - Project 80. These included investigations involving a real estate development company, alleged municipal corruption related to a real estate developer, an alleged money laundering scheme, an alleged planned bankruptcy, alleged fraud by a mortgage broker, alleged fraud by an investment advisor, and assisting with an internal criminal investigation (Carter);
- Supervised forensic accountants on secondment at police forces in Ontario, including the O.P.P., Toronto Police Services, RCMP's Proceeds of Crime Unit in Kingston, and Peel Regional Police, including advising on approaches to criminal investigations where

accounting systems and financial information are involved and reviewing reports prior to their release;

- Supervised two investigations of alleged cheque kiting schemes where losses of approximately \$13 million and \$1.0 million were incurred by financial institutions;
- Supervised a forensic review for the Crown Attorney's Office related to evaluating the adequacy of available evidence to support criminal charges;
- Assisting a police force in the investigation of an internal matter involving allegations of wrongdoing by members of a drug unit;
- Assisting Canada Revenue Agency in relation to the role of professional accountants in an investigation alleging fraud by one of their clients; and
- Supervised or conducted various assignments where findings were reported to the police.

Civil Litigation

(i) Investigative and Forensic Accounting

Investigative and forensic accounting experience for civil matters includes the following:

- Court appointed Inspector for Infolink Technologies in relation to allegations of wrongdoing concerning senior executives;
- Conducted or supervised numerous investigations into the activities, expenses, and salaries of senior management of public and private companies, non-profit organizations and unions, including investigations related to fraud, abuse, secret commissions, and improper conversion of company assets to personal use;
- Supervised the investigation of fraud allegations into the management of a \$100 million real estate joint venture and assisted in recovery of assets;
- Assisted in the investigation of the activities of a financial advisory business in Florida as it related to over \$40 million invested through Canadian investment advisors in an allegedly secure investment products;
- Supervised an investigation into the activities of senior management of several hotels where "creative accounting" was alleged to have been used to conceal amounts paid to the benefit of senior management and their families and assisted in a substantial asset recovery;
- Supervised an investigation involving Ontario Realty Corporation, including "under contract" sales and allegations of employee fraud and collusion involving environmental contracts;
- Supervised the investigation into the activities of an employee in relation to procurement services and alleged improper bidding processes;
- Investigated a company to assess whether \$8.0 million in funds were invested in accordance with the investors' understanding, reviewed the financial position of the company, and reviewed alternative courses of action available to the investors to realise on their investment;

- Conducted or supervised numerous reviews of the financial records of insolvent companies to identify potential payments of fraudulent preferences and to assess the integrity of past management;
- Investigated allegations of kickbacks and over-billing by contractors supplying services to an insurance company, quantified the related damages from the over-billing of services and assisted in a partial recovery of assets;
- Supervised several investigations related to estates and estate administration;
- Conducted investigations of the services provided by five private vocational training locations in relation to a government assistance program, on behalf of both a provincial government department and the franchiser;
- Supervised or conducted several investigations into the use of Provincial public funds by agencies;
- Supervised four investigations involving allegations of fraud by employees of auto dealers;
- Supervised the investigation of an alleged purchases fraud where an employee confessed to owning a hidden interest in a supplier from which he invoiced his employer and for which he reimbursed the company;
- Supervised an investigation of a bookkeeper who admitted to defrauding his employer (a U.S. subsidiary of a multi-national company); and
- Conducted and/or supervised eight forensic investigations on behalf of the Law Society of Upper Canada's Errors & Omissions Department. These included investigating fraud allegations and negligence allegations, including in some instances quantification of the resulting damages.

(ii) Assessing Professional Performance

Assignments addressing professional performance include:

- Assisted Counsel for a CA firm where negligence was alleged in relation to financial statements of a public company which were materially misstated due to collusive management fraud;
- Assisting Counsel for the plaintiffs in the review of auditor performance where negligence was alleged in relation to financial statements included in sales brochures provided to potential investors, who allegedly incurred losses of over \$800 million;
- Assisted U.S. Counsel for a CA firm where negligence was alleged in relation to the audit of a hedge fund where investors allegedly lost approximately \$400 million U.S.;
- Assisted Canadian and U.S. Counsel for a CA firm where negligence was alleged in relation to restated financial statements of a public company;
- Assisted Canadian and U.S. Counsel for the plaintiffs in evaluating a potential claim of auditor and monitor performance in relation to a public real estate development company;

- Assisted Counsel for a CA firm where auditor negligence was alleged in relation to the audits of a hotel and related businesses;
- Assisted the Crown and Canada Revenue Agency in relation to the professional conduct of CA's performing compilation engagements where the financial statements were materially misstated as a result of fraudulently understated sales;
- Numerous engagements performed for the Institute of Chartered Accountants of Ontario in relation to auditor/accountant performance and professional conduct; and
- Several engagements to review accountant performance in relation to allegations that financial statements were materially misstated.

(iii) Loss Quantification

Experience related to loss quantification includes:

- Quantified economic losses on behalf of brokerage companies and/or their clients, including:
 - Alleged damages of \$10 million arising from investments in Bre-X and Bro-X;
 - Alleged damages of \$1.6 million arising from alleged broker fraud;
 - Alleged damages of \$1.2 million arising from alleged broker negligence;
 - Alleged damages of \$6 million arising from alleged improper investment advisory services; and
 - Alleged damages of \$600,000 arising from alleged negligence on the part of a lawyer acting against a brokerage firm;
- Quantified economic losses on numerous engagements related to shareholder disputes, including losses arising from alleged fraudulent activities, alleged mismanagement, and alleged breach of contracts;
- Evaluated a \$14 to \$18 million claim on behalf of a financial institution where a borrower alleged the institution's actions caused the developer to lose control of his business and suffer losses;
- Conducted or supervised numerous assignments related to family law matters, including tracing and locating assets, quantifying loss of child and spousal support, assisting counsel in examinations involving financial matters, attending at mediations and arbitrations, and otherwise assisting counsel in evaluating the financial aspects of family law matters; and
- Quantified economic losses in relation to several estates where mismanagement was alleged by beneficiaries or the Children's Lawyer;
- Prepared or supervised the preparation of numerous reports determining the loss of income and/or loss of support where persons suffered injuries or death;
- Assisted counsel for a financial institution where a \$900,000 loss was incurred by a leasing company and damages were sought from the financial institution;

- Evaluated alleged economic losses on behalf of LawPro in relation to a claim against counsel and other experts arising from a matrimonial settlement;
- Supervised the preparation of an insurance claim under a \$1.0 million fidelity policy arising from the alleged fraudulent activities of a company's fleet manager;
- Prepared reports determining economic losses in two defective raw materials claims and in relation to issues involved in the purchase of a business;
- Prepared a report quantifying the economic loss arising from the alleged negligent investment of deposits received on the sale of condominium units (damages of approx. \$1.0 million);
- Conducted a forensic review of an auto repair shop in relation to alleged unrecorded income not reflected in a \$700,000 insurance claim;
- Assisted in determining damages in relation to two tax disputes, one of which involved Canada Revenue Agency's Special Investigations Unit.

(iv) Evaluations, Compliance, Due Diligence, and Consulting Assignments

Experience related to evaluations, compliance, due diligence and consulting assignments includes:

- Conducted forensic reviews focused on whether importers and/ or manufacturers of leviable media appropriately collected and remitted the proper levies to the respective regulatory body;
- Supervised eleven investigations of charities on behalf of a licensing organization and on behalf of The Public Trustee of Ontario;
- Conducted three compliance audits on behalf of the City of Hamilton in relation to 2003 municipal candidates' compliance with the Municipal Elections Act, 1996;
- In the process of conducting three joint "compliance audits" on behalf of the City of Vaughan in relation to 2006 municipal candidates' compliance with the Municipal Elections Act, 1996;
- Team member on the Review of a Territorial government's Internal Audit Bureau related to fraud investigation aspects of the assignment;
- Supervised a special review of a large local union that included a review of executive conduct, governance, internal controls, workplace safety, general computer controls, and specific areas of concern;
- Project Manager for the 1997/98 and 1998/99 evaluation of the Integrated Proceeds of Crime (IPOC) Initiative for Solicitor General Canada;
- Project Manager for developing cost/benefit component of the Framework for the evaluation of the IPOC Initiative;
- Conducted a due diligence investigation regarding a proposed \$10 million Canadian joint venture with a group of companies based in Monterrey, Mexico;
- Supervised a due diligence investigation related to the proposed acquisition of six commercial real estate properties in the greater Toronto area;

- Supervised two assignments to assess contract compliance involving outsourcing of collection services to private collection agencies;
- Supervised two assignments for a major newspaper related to its competitiveness; and
- Investigated a real estate joint venture's soft cost expenditures on behalf of a "silent partner".

OTHER PROFESSIONAL EXPERIENCE

In 2007 and 2008, Ken served as the Arbitrator's Accountant on a matter arising from a purchase agreement that was heard by the Honourable John Morden.

In 2008 and 2009, Ken authored / updated two one-day fraud-related courses for the Institute of Chartered Accountants of Ontario, with the assistance of others.

Previous experience with Grant Thornton includes audit experience with a major public company client, several junior public companies, owner-managed businesses, and municipal and non-profit entities. He also has experience in assisting clients with public offerings, preparation of business plans and financing proposals. He joined Grant Thornton (then Doane Raymond) in 1980 and worked in Kentville, Nova Scotia and in the firm's National Office in the Professional Standards Department.

During his three year term in National Office, Ken:

- (i) Organized the firm's quality control reviews of operating offices;
- (ii) Provided accounting and auditing consulting to offices across Canada;
- (iii) Developed firm training programs and assisted in training personnel in newly-merged offices; and
- (iv) Researched and assisted in developing firm policies and procedures in accounting and auditing (in particular related to Handbook revisions released or proposed in the 1985 to 1988 period).

EDUCATION / DESIGNATIONS

- CA •IFA (designated as a specialist in "Investigative and Forensic Accounting" by the CICA), 2000.
- F.C.F.I. (Certified Forensic Investigator), 2001. Ken was a founding member of the ACFI and was made the first "Fellow" of the ACFI in 2008.
- C.A., 1988 (Ontario).
- Qualified as a C.A in 1983 (Nova Scotia).
- B.Sc. (with Distinction), University of Winnipeg, 1974.

OTHER POSITIONS HELD

- President and Director, Association of Certified Forensic Investigators of Canada, 2006-2008, 2001-2003, Director, 1999-2001
- Institute of Chartered Accountants of Ontario, Instructor, Fraud Awareness for CA's in Industry / Public Practice, 2005 – 2008
- Partner, Grant Thornton, 1991-2004, Canadian service line leader for Forensic Accounting & Investigative Services, 1998-2004, member of Policy Board, 1998-2000
- Governor, Canadian Region, Association of Certified Fraud Examiners, 1997-1998
- President, Toronto Chapter of the Association of Certified Fraud Examiners, 1996-1997, Director, 1995-1996
- Member, Professional Development Committee, Institute of Chartered Accountants of Nova Scotia, 1987
- President, Information Systems Control Association, Nova Scotia Chapter, 1987-1988 and Chairman, Organizing Committee, 1986
- Moderator of Council, Kingsway Baptist Church 2005-2006, Vice-Moderator, 2003-2005, and member of Council, 2007 - 2009, 1999 – 2001.

EXPERT TESTIMONY

On various engagements, Ken has been accepted as an expert in investigative and forensic accounting, generally accepted auditing standards, generally accepted accounting principles, and compliance auditing under the Ontario Municipal Elections Act, 1996.

- Ontario Provincial Court (Criminal Division):
 - Seven day appearance in relation to charges of defrauding the public.
 - Three and a half day and two day appearances in relation to charges of defrauding the public and breach of trust.
- Quebec Superior Court (Criminal)
 - Qualified as an expert in investigative and forensic accounting in a two day appearance testifying as the financial affairs of two persons charged with murder, conspiracy to commit murder, and drug trafficking.
- Ontario Provincial Court (General Division):
 - Six appearances in relation to shareholder disputes and insurance matters.
 - An appearance in relation to quantifying alleged losses arising from a municipality's tendering process.
 - An appearance in relation to alleged wrongful conduct in the administration of funds by a caregiver.
- Ontario Court of Justice:
 - An appearance arising from a Court-ordered compliance audit related to charges under the Ontario Municipal Elections Act, 1996 in relation to the 2003 municipal election in Hamilton.
- Quebec Superior Court (Civil)
 - Qualified as an expert in accounting and auditing matters in a 24 day appearance in relation to alleged professional negligence involving auditors of Castor Holdings.

- Nova Scotia District Court:
 - Direct testimony in relation to observation of a fraud-in-progress.
- A five day appearance before a Canadian Independent Hearing Officer related to a union matter alleging a number of alleged breaches of the union's Constitution.
- Two appearances at Hamilton City Council to respond to questions related to compliance audit reports that addressed compliance with the Municipal Elections Act, 1996.
- Various appearances at Discoveries, pre-trial hearings, arbitrations, mediations, and ICAO Professional Conduct Committee and Discipline Committee hearings, including being qualified as an expert witness in the conduct of compliance audits conducted under the Ontario Municipal Elections Act, 1996.

OTHER

Ken has been a speaker at Conferences and seminars for the Canadian Institute of Chartered Accountants, the Association of Certified Forensic Investigators of Canada, the Association of Certified Fraud Examiners, the Annual International Fraud Conference sponsored by Toronto Police Services Fraud Squad, the ACFS National Fraud Conference in California, the National Association of Local Government Auditors, various industry associations, law firms, and for internal firm-sponsored events.

Ken is the author of two one-day courses for the Institute of Chartered Accountants of Ontario and is a continuing education instructor for the Institute of Chartered Accountants of Ontario. He has also instructed for the Institute of Chartered Accountants of Bermuda.