

Forensic Accounting & Fraud

Making the team work better in probes

By **JEFF FILLITER**

Several years ago, a complex fraud case brought a former law enforcement investigator to Switzerland in pursuit of critical banking records. The investigator was part of a team of forensic accountants and lawyers working on behalf of a Canadian financial institution. Their client had been the victim of a multimillion dollar scheme involving money laundering and identity theft spanning numerous international jurisdictions.

The case also featured an allegation of murder against the people who committed the fraud.

The team desperately needed the documents but knew that Switzerland's notoriously strict banking regulations would make access difficult. The matter was further complicated because the documents were located in several banks.

Nevertheless, they filed a criminal complaint on behalf of the Canadian financial institution and were assigned an investigative judge to assess their request. The team's counsel led a presentation that convinced the judge to grant their application. Within a month or so, the judge received approximately 20 bankers boxes crammed with documents.

Judges tend to dislike fraud cases due to the volume and complexity of the documentation and this judge was no exception. He made it clear to the team he did not have the time, resources or inclination to sort through the boxes for documents relevant to the case. Nor was he going to turn them over en masse.

The team was seemingly stymied until the former law enforcement investigator proposed a bold solution. "Why don't we suggest that the judge accept me as an agent? unpaid of course? who could work on his behalf?" he said. "I could do a review for the supporting materials, with preparation from the forensic accountants, in exchange for having access to the documents."

It was an unprecedented proposal. But the judge accepted it, noting that the former investigator's background as a senior law enforcement officer made the judge comfortable with granting such an unusual relationship. That decision proved to be pivotal to the investigation.

Although many former law enforcement investigators now work with forensic accounting firms, the marriage of the financial and investigative disciplines is still a relatively new development.

In Canada, the idea of assimilating the two took shape in the early 1990s when Robert



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Lindquist, one of the pioneers of forensic accounting, convinced former law enforcement officers such as Rod Stamler, former assistant commissioner of the RCMP, and Jim Szarka, former deputy commissioner of the OPP, to enter the corporate world.

Since then, many retired investigators have followed suit.

While the marriage might at first blush seem like a strange blend of personalities? the types of people attracted to accounting

a tendency on each expert's part to assume the other doesn't really know anything beyond his area of knowledge. Former cops might think an accountant has no idea how to interview a witness. A forensic accountant might not bother to include an investigator in discussions involving the analysis of financial documents.

In fact, many forensic accountants are highly skilled interviewers. And many former police officers have had training in

of the cheques, when traced back to its origin, revealed that a suspect had diverted funds to purchase a luxury item for his personal use.

The investigator wasn't able to follow some of the complex paper transactions that the forensic accountant easily understood. But he could see, from an investigator's perspective, that something looked wrong, and had been overlooked in the financial analysis.

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and policing tend to be quite different, to say the least? the skill sets each brings to a file are complementary.

Obviously, the forensic accountants are the experts in analyzing the financial documents and the people with policing backgrounds are more experienced in the traditional aspects of an investigation, including interviewing witnesses and suspects. Both, however, can be quite good at the other's primary strength.

Understanding and accepting that point is key to making the collaboration work best. There can be

accounting, business and in the reading of financial documents.

Even if that is not the case, the two parties bring different ways of perceiving a file that can often be helpful. Both are trained professionals. And if there is a mutual respect for each other's strengths, they can usually add, rather than detract, from an engagement when they share their talents.

That was evident in a recent file where an investigator examined documents in a hidden-asset case. The forensic accountant on the file had been looking at them in a certain way and had not seen that one

might want to consider having the former investigator call the bank's security office before, or at the same time as, it contacts the legal office.

A conversation between the two former investigators often results in the documents being assembled quickly. Once the legal department has ascertained that the order is legitimate, the documents can then be produced right away, instead of having the search for them commence after the legal opinion has been rendered.

It's also helpful for forensic accountants to know that many former investigators have personal and often high-level contacts in international locations. Determining together how best to approach a contact in a secretive banking jurisdiction such as the Cayman Islands or the Isle of Man, for example, can often improve the chances of obtaining access, information or evidence.

While a former investigator's law enforcement background can bring benefits to a forensic accounting firm, the firm's senior accountants must caution the investigator not to abuse that advantage.

In most cases, it is unwise for a former senior police officer to mention his police credentials when interviewing a suspect or nervous witness. To do so could be construed by a court as the investigator having confused the individual into thinking he was speaking with an agent of the police. That could result in any testimony related to the interview being excluded.

Nor should the investigator use his relationship with another former colleague, perhaps now working in corporate security, to obtain information in a questionable or illegal manner. Likewise, investigators need to resist the urging of an overly zealous forensic accountant to get the information any way possible.

Most forensic accounting firms now employ at least one former law enforcement investigator. It is an evolution in the profession that, if managed properly, can benefit in the handling of files requiring their various skill sets.

It works best when there is mutual respect and a combined sense of purpose — which, as a cop would say, is catching the bad guys.

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ment investigators have contacts in the corporate security offices of places such as banks and other financial institutions, which are also staffed by former investigators.

If a forensic accounting firm has obtained a receivership order, for example, involving the handing over of documents from a bank, it