

Austin Area Chapter Association of Certified Fraud Examiners

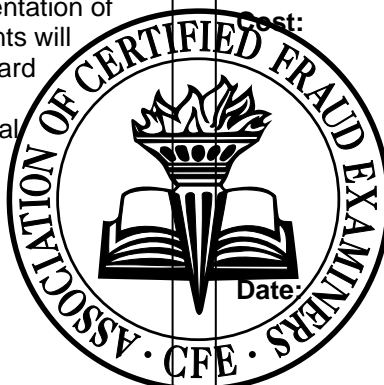
President's Corner

Shari Daffern, CFE, CIA, CPA

The Board is excited by the selection of speakers for our Spring Seminar on Wednesday, April 23rd! We are certain you will find all the topics interesting and timely. The information is also posted on our web site. Please promote the seminar around your agency or business.

The ballot has been sent for selecting our Chapter Officers and Board Members. Please return it by our April 7 meeting.

The Chapter Bylaws require an annual presentation of financial statements. Copies of the statements will be available at the April meeting, and the Board will answer questions you might have. This brief presentation will be followed by our usual program.



Chapter Meeting Schedule

Time: 12:00 to 12:50 p.m.
Lunch served promptly at 11:45 a.m.

Location: Nuevo Leon Restaurant
1501 East, 6th Street

Cost: \$11.00 – Chapter Member
\$13.00 – Non-Chapter Member

This Month's Meeting

April 7, 2008

Speaker: Brenda C. Pisana
Security Director
Texas Lottery Commission

Topic: Fraud Prevention at Texas Lottery

register on line: www.austinafce.com
or

call 512/389-4813

INSIDE THIS ISSUE

- 2 What You Missed and Board & Committee Members
- 4 Speaker's Biography
- 5 The Spotlight's on You!

What You Missed

Mike Garner, CFE, CIA

If you were not able to attend the March 3, 2008 chapter meeting, you missed a presentation on "Fraud Scandals at Electric Cooperatives" by Paul Lawrence, Fraud Attorney. Mr. Lawrence's current focus is on "qui tam" whistleblower litigation under the False Claims Act.

In October 2005 he secured a \$12.5 million settlement for his client and the federal government in a False Claims Act lawsuit against Fluor Corporation. Fluor knowingly over billed the federal government under many cost-reimbursable contracts held by its Fluor Daniel subsidiary with both the Department of Energy and the Department of Defense. This case was sealed for five and half years. During this time the Justice Department investigated the claims against Fluor and Fluor attempted to convince the government not to intervene in the action. By August 2005 the Justice department recognized the situation for what it was and intervened to take over the prosecution and after that the case quickly settled. During the five-year process the Whistle Blower was subjected to severe retaliation and eventually had to leave the company and unfortunately he passed away just eleven months after he won the lawsuit.

Mr. Lawrence indicated that electric cooperatives were ripe for fraud. Prior to starting his discussion he let us know that his wife had filed a class action suit against Pedernales Electric Cooperative (PEC) but they were no longer involved in this lawsuit. His wife's grandfather had served as a Director of PEC in the 1960s and when she started examining what was happening now at the Cooperative she was upset at the apparent flagrant breaches of fiduciary duty that appeared to be going on unchecked for decades.

Mr. Lawrence stressed that since litigation was ongoing he would only be able to discuss with us what had already appeared in the newspapers. *Editor's note: There was a settlement in the PEC case after Mr. Lawrence's presentation but prior to this article being written. Therefore, for purposes of completeness and clarification, information is included in this article that was not discussed at the meeting and that was not necessarily in the newspapers.*

Mr. Lawrence started out his presentation by passing around a John Kelso Commentary from the Austin

Continued on page 3

AUSTIN AREA CHAPTER OF
THE ASSOCIATION OF CERTIFIED FRAUD EXAMINERS
PO Box 13462, AUSTIN, TEXAS 78711

BOARD & COMMITTEE MEMBERS

FISCAL YEAR 2006

Shari Daffern, President
Texas Water Development Board
shari.daffern@twdb.state.tx.us
512 463-7978

Andrew Prough, Vice-President
Medical Fraud Reviews LLC
andyprough@austin.rr.com
512 262-8760

David Heater, Treasurer
Texas Parks & Wildlife Department
david.heater@tpwd.state.tx.us
512 389-4813

Mike Garner, Secretary
Adjutant General's Department
Mike.D.Garner@tx.ngb.army.mil
512 782-5640

Tracy Bohmer, Director
Health & Human Services Commission
tracy@tracybohmercpa.com
512 303-3880

Marci Sundbeck, Director
Employees Retirement System
marci.sundbeck@ers.state.tx.us
512 867-7302

Glyn Rogers, Director
Office of the City Auditor
glyn.rogers@ci.austin.tx.us
512 974-2081

Patty Vela, Newsletter
Texas Parks & Wildlife Department
patricia.vela@tpwd.state.tx.us
512 389-4458

American-Statesman title "Less work, great money: This Bud's for you, America" with the sub-title "PEC board president achieves the American dream: loads of money, little to do." The article talks about the perks of PEC Board President W.W. "Bud" Burnett including paid a barrel of money to do not much, if anything at all; no man in this great land of ours was paid more to do less; no office; no assistant; no appointments; no co-op files; no computer; no e-mail; and no voice mail. The article goes on to say that since 2001 Mr. Burnett had received \$1 Million plus benefits for his work for the co-op. Mr. Burnett testified that he couldn't remember whether he had ever seen any of the utility's budgets, whether the board had any standing committees; or who, if anyone, approved executive expenses.

Mr. Lawrence emphasized that PEC is a major business with \$1 Billion in assets, \$226 Million in owner's equity (capital credits), and 218,000 member owners. When everybody owns it nobody owns it seems to be the perception of some electric cooperatives. PEC seemed to be run like a private fiefdom with the Board members being appointed by the Managers. The board members were paid \$40,000 - \$50,000 a year to show up once a month for board meetings. In 2007 General Manager Bennie Fuelberg was paid \$390,000 in salary and \$1 Million in deferred compensation. Some of the concerns mentioned include \$700,000 in credit card charges by management and the board including first class airfare, tickets to concerts, stays at hotels such as the Ritz Carlton, etc.

A preliminary settlement was reached in the PEC lawsuit on March 10, 2008. In this preliminary agreement the co-op would refund \$23 Million in dividend-type payments over a five-year period; pay \$4 Million in fees and expenses to lawyers representing the plaintiffs; and hire a court-approved firm, to conduct an independent and comprehensive review of its financial and management operation over the past 10 years. Under pressure from the lawsuit PEC had already returned \$7 Million to those who were customers before 1977 to begin retiring capital credits and announced changes to its bylaws to allow a more open election process for its board.

Critics to the settlement indicated that it did not address a number of the key issues that prompted the lawsuit including overcompensation of management and the board (the overcompensation should be identified and returned to PEC); identify the money lost on Envision

purchased and now wholly owned subsidiary of PEC; identify any compensation paid by Envision to the past PEC General Manager (Envision Treasurer) and past PEC Board President (Envision President); identify where PEC Board and Management has broken PEC by-laws; identify where PEC by-laws conflict with the Texas Electric Cooperative Corporation Act; etc.

Mr. Lawrence then discussed problems at other large cooperatives including Pioneer Electric cooperative, inc. located in Kansas and Cobb Electric Membership Corporation located in Georgia. These cooperatives have been diversifying into other non-energy activities and also have questionable management practices and lack of oversight.

He briefly discussed the history of electric cooperatives. In the 1930s urban areas of Texas had enjoyed electric service for 50 years but this service did not extend beyond the city limits and it was not profitable for private power companies to provide services to sparsely populated rural areas. In order to get power the farmers and ranchers organized local cooperatives to provide local, consumer-owned electric service. The first electric cooperative was established in 1935 in Bartlett, Texas and is still one of Texas' 74 electric cooperatives (PEC was formed in 1938). Cooperatives are exempt from federal income tax in accordance with Section 501(c)(12) of the Internal Revenue Code and in turn have responsibilities and duties to their member customers that for-profit electric utilities may not owe their customers. Electric cooperatives do not generate any power themselves but rather purchase this power from organizations like LCRA. The responsibility of the cooperatives is then to get that power to their member customers. Electric cooperatives were a great idea when they were first started in the 1930s depression era when rural residents were trying to get electricity but they may have outgrown this original purpose and therefore probably need a revised structure and oversight requirements.

Speaker's Biography

Brenda C. Pisana

Security Director
Texas Lottery Commission

Retired after 20 years from US Army as Special Agent with Army Criminal Investigation Command

Previous jobs with State include: TX Workers Comp Commission as Internal Affairs investigator; Senior Investigator with TX Mental Health and Mental Retardation as Internal Affairs investigator; Internal Affairs investigator with HHSC Office of Internal Affairs; and enforcement investigator with TX Lottery Commission.

Current job with TX Lottery Commission: Security Director

Below is Pisana's topic and an outline of her presentation:

THE NUMBERS GAME
CFE Luncheon Presentation
Brenda C. Pisana

Lottery Commission Organizational Structure

- ◆ Enforcement Responsibilities
- ◆ Security Responsibilities

Games

- ◆ On-line
- ◆ Instant

Fraud Methods

- ◆ Retailer
- ◆ Player

Tools to Combat Fraud

- ◆ CAMP system to monitor investigations and compliance
- ◆ GTech (Lottery operator) systems and reports
- ◆ Game designs
- ◆ Ticket testing
- ◆ Security audits
- ◆ Website information

The Spotlight's On You!

A special feature focusing on members of the Austin Area Chapter of ACFEs



Dinah Arce has been a member of the Chapter
for the past 3 years
But maybe you didn't know...

Job Description:

Senior Internal Auditor for the Teacher Retirement System of Texas

What I'm working on now:

I'm just starting on a new audit project, "Board Reporting," that will look at the processes and controls related to the information that is presented to our Board members.

Best part of my job:

I enjoy the people that I work with and the diversity of audit projects.

Ambition and/or Goals:

In my career: I would like to take on additional volunteer opportunities with my professional affiliations, and plan to do contract audit work and/or teach when I retire. In my personal life: Travel, learn a second language, and take on new and challenging activities.

Years of State service:

I have worked for the State almost 10 years, but also worked in county government for 9 years.

My first job:

I taught elementary school.

Hobbies:

I love shopping for antiques, reading, and I enjoy doing volunteer work in the community - especially the Austin Children's Shelter and Ballet Austin.

Favorite Movie:

The Wizard of Oz

Last book I Read:

"The Appeal" by John Grisham. Now I'm reading "Legacy" by James Michener and "The Predators' Ball" (about Drexel Burnham and junk bonds) by Connie Bruck.

Favorite foods:

Mexican

Favorite Restaurants:

Chuy's and Castle Hill

My pet(s):

A dog, "Molly". She's part Border Collie and herds anything!

It's a good day when:

I can spend time doing fun stuff with my family.

Pet Peeves:

Clutter

What I would do with a surprise afternoon off:

Shop

I'm most proud of:

My daughters.

Most people probably don't realize:

I once taught baton twirling. I coached many State and National medalists, taught at camps and clinics across the nation, and directed many competitions around Texas. I still have my batons, and several summers ago I gave lessons to the kids at the Austin Children's Shelter.