

Austin Area Chapter Association of Certified Fraud Examiners

President's Corner

Tracy Bohmer, CFE, CPA

Please note: The March 2nd luncheon is rescheduled to March 9th.

Our spring seminar is planned for April 22nd so get it on your calendars early. We hope to see everyone there!

We are in the process of accepting applications for our Chapter's scholarship. Remember that our members and their family members are eligible. The link will be on our website soon or notify Glyn Rogers if you know someone that might be interested.

Hope you have been enjoying our luncheon and seminar topics. We want to continue to provide interesting and relevant topics at our meetings and seminars. Please let any Board Member know if you have suggestions for speakers--whether you have worked on an interesting case or know someone who would be willing to speak with us.

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: Luncheon Only:
\$11.00 – Chapter Member
\$13.00 – Non-Chapter Member

This Month's Meeting

Date: February 2, 2009

Speaker: Ed Martin
Sage Investigations

Topic: Government vs Private Investigation
register on line: www.austinacfe.com
or

call 512-923-8656



INSIDE THIS ISSUE

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

What You Missed

By Mike Garner, CFE, CIA

If you were not able to attend the January 7, 2009 chapter meeting, you missed a presentation on "Motor Fuel Tax Fraud" by Mr. Mark D. Smith, CFE, Motor Fuel Tax Fraud Unit, Travis County District Attorney's Office. Mr. Smith retired from the Austin Police Force in 2003 where he spent most of his law enforcement career as an investigator assigned to work theft, forgery, fraud, and other white-collar crime cases. His presentation focused on the different types of motor fuel tax fraud and provided three cases as examples.

Mr. Smith briefly discussed the Motor Fuels Tax Fraud Unit and their responsibilities. This unit is funded by the state and receives referrals from the Comptroller's Office and from Law Enforcement. Their cases are developed based on the Tax Codes with have both civil and criminal penalties. The regulations include requirements for licenses, permits, numerous records, etc. Motor Fuel Taxes fund highways and schools. During trial they don't mind mentioning to the jury that this fraud has hurt our children's education and helped to cause us to start building toll roads.

Mr. Smith discussed in some detail the taxing process for motor fuels. He started at the refinery where motor fuels are developed; then motor fuel is transported so that it located at the refinery, a terminal, a marine vessel, or at a bulk plant (simplified version); motor fuels are then taxed as they are transported from one of these locations (the rack) to the supplier; the supplier provides it to the retailer where it is then sold to the customer. In Texas State taxes are \$.20 a gallon for both gasoline and diesel. Federal taxes for gasoline are \$.184 per gallon and \$.244 a gallon for diesel. Aviation fuel is not taxed. Non-taxed diesel (diesel fuel that does not meet standards for highway vehicles but can be used for other authorized purposes) is dyed with red dye and anyone that knowingly introduces such fuel into a motor vehicle designed for highway use is liable for a penalty of up to \$25,000 per day.

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 2009

Tracy Bohmer, President
tracy@tracybohmercpa.com
512 303-3880

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

David Heater, Treasurer
David.Heater@att.net
512-923-8656

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

Shari Daffern, Director
Texas Water Development Board
shari.daffern@twdb.state.tx.us

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

Glyn Rogers, Director
University of Texas Athletics
glyn.rogers@athletics.utexas.edu
512-748-4953

Discussed various methods of fraud such as extending tax-paid fuel by blending other products with diesel fuel or gasoline; permits obtained in the name of non-existent companies or individuals; theft of fuel; sale of off-spec products as fuel; daisy-chain schemes where a variety of tax-free transactions are recorded on paper in order to confuse the issue and conceal the actual purchaser; bring in tax-free fuel and sold as tax paid fuel; fuel purchased in Texas for tax free export but then sold in Texas; and jet fuel sold as diesel fuel and/or blended with diesel fuel. Motor fuels criminal offenses include operating without the proper permit, transportation, failure to maintain required records, and evasion of tax.

Mr. Smith then went into some war stories. He started with Larry West. For two years, Larry West's company trucked fuel directly from Mississippi River barges to convenience stores between Houston and Corpus Christi, Texas. He didn't pay a penny in tax, claiming he was distributing "petroleum distillates," not gasoline. A state jury rejected his explanation and in 2005 convicted him of evading Texas fuel taxes. He was charged with various knowing or intentional failures to follow the statutes requiring permits, paperwork, and tax collection and remittance. The jury found him guilty on all counts. In each case, the jury assessed punishment at twenty years in prison and a \$10,000 fine.

His next case involved Yousef I. Abuteir who had already been convicted years earlier for similar offenses. He and two others avoided paying motor fuels taxes by falsely representing to a Louisiana refinery that the fuel products purchased were for export to Mexico. The fuel products were then transported to locations in Houston and Channelview areas, where they were mixed with other petroleum based materials and sold at retail fuel stations as taxable motor fuel. Mr. Abuteir was let out on bail and is still at large. This case was investigated jointly by the EPA, Immigration and Customs Enforcement, Department of Transportation, the IRS, Texas Comptroller's Office and the Travis County District Attorney's Office.

The next case involved Travis Roberson of East Texas. He was president of the Travis Fixed Base Operation and Service and supplied the Metropolitan Transit Authority (MTA) in San Antonio with diesel fuel. He billed the MTA for the fuel and the state tax, and then he illegally diverted the tax dollars for personal use. He filed false fuel tax returns and even though his permit was revoked by the Comptroller's office he continued operating without a permit. He received a sentence of 11 years in state penitentiary and was to pay \$1.4 Million in restitution.

Speaker's Biography

Edmond J. Martin

After 26 years of income tax and money laundering investigations Ed Martin retired from IRS Criminal Investigation Division. In January 2002, he established the private investigative firm of Sage Investigations, LLC, which provides investigative and forensic accounting services and litigation support to Civil and Criminal attorneys, individuals and businesses. He has experience in both the Federal and State Court systems. During his investigative career he also worked for the Texas State Securities Board for three years.

Ed Martin grew up in the New Orleans, Louisiana. In 1968 he earned his degree in accounting from Southeastern Louisiana College. Following graduation, Ed spent a year with a New Orleans CPA firm and then applied for a position of Special Agent with the Intelligence Division of the IRS. He accepted the job and from August 1969 to February 1970 he trained in federal law enforcement in Washington, DC. After returning to New Orleans he became part of the DOJ Strike Force team that investigated and prosecuted District Attorney Jim Garrison and the New Orleans Police Department for public bribery by the local pinball industry.

In 1975 Mr. Martin and his family moved to Austin, Texas where his career continued. After reaching senior agent status he became lead agent in the investigation and prosecution of income tax evasion cases and of multiple fraud investigations.

continued on page 4

Mr. Martin resigned from the US Treasury Department in 1984 and worked as a Supervising Examiner for the Texas State Securities Board in Austin. This experience allowed Mr. Martin to become adept in broader definitions of fraud including, Ponzi schemes (John Colgin –1985 and Texas Realty Ventures), oil and gas fraud, and securities fraud.

In 1989, Mr. Martin became a CFE and was later elected to be the first President Austin Chapter, which is the first Chapter of ACFE.

In 1991, Mr. Martin returned to the IRS Criminal Investigation Division as a Special Agent to investigate fraud and money laundering cases. Some of the cases Mr. Martin handled during this period included: the employee leasing company Ralph Kirley, Inc. (1996), the advanced fee scheme of William Fourie (1996-1998), the Ponzi schemes of Russell Erxleben (1998-1999), and Brian Stearns (1999-2000). Mr. Martin was also lead agent and instrumental in solving the 5-year-old mystery of what happened to Madalyn Murray O'Hair and her two adult children (1997-2000). After the trial of one of the criminals convicted in the O'Hair case, the Austin Chronicle stated: **"If not for the methodical investigation of Special Agent Ed Martin and the FBI they (Gary Karr and David Waters) would have gotten away with murder."**

Mr. Martin received an award for his "Dedication to the Cause of Law Enforcement" from the US Attorney's Office in Austin and he was nominated for the FBI's Director's Award. In 2002, Mr. Martin received the Law Enforcement Circle of Excellence Award from the Central Texas 100 Club and in June 2002, he received the "Service Above Self Award" from the Austin Rotary Clubs. Mr. Martin was President of the Westlake Rotary Club where he has been a member since November 1985. He is a member of St. John Neumann Catholic Church, is a Past Grand Knight of the Knights of Columbus and is the Faithful Navigator of Assembly 1099 of the 4th Degree Knight. He is active in community volunteer work through both Rotary and the Knights.

Since beginning Sage Investigations, LLC, Mr. Martin has been consulting and conducting investigations for individuals, attorneys, corporations, and federal and local governments in embezzlement, fraud, corporate risk, due diligence and mortgage fraud cases. Mr. Martin also has spoken to civic groups, university students, state employees, and others about fraud awareness. He has prepared a manual on Mortgage Fraud Red Flags. He designed a financial investigative software package to aid in complex financial investigations. See the website of Sage Investigations, LLC for more information at www.sageinvestigations.com and www.cynicinc.com.

The Spotlight's On You!

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

Ed Martin has been a member of the ACFE

for the past 19 years.

But maybe you didn't know...



Job Description:

Private Investigator and Forensic Accounting Consultant

What I'm working on now:

Daily I work on a number of cases, including asset searches, background searches, various types of investigations and consulting on income tax matters. Once a month I participate on a team for a major, US bank as a forensic examiner and interview executives, look at internal systems, internal controls and segregation of duties. All of these activities require written reports at the end.

Best part of my job:

Helping people find the truth and solve their problem, whether it is an forensic accounting, or tax matter, surveillance or computer forensics, solving an embezzlement, or expert witness.

Ambition and/or Goals:

To enjoy life in retirement while still working

Years of state service/CFE:

Federal employee 26 years, State of Texas 3 years, I have been a CFE since 1989 and was the first president of our chapter. I have been in the investigative field since 1969 when I was trained by the US Treasury Department.

My first job:

After college graduation my first job was with a CPA firm and then the US Treasury Department Intelligence Division.

Hobbies:

Computers, reading and learning about accounting matters and finance.

Favorite Movie:

Butch Cassidy and the Sundance Kid.

Favorite foods:

Any foods my wife fixes, she is a great cook

Favorite Restaurants:

Shoreline Grill in Austin, Brennan's in New Orleans

My pet(s):

I have no pets but my son and daughter in law have a, Chi Wawa named Sophie and she our pet.

It's a good day when:

A new case with a good challenge enters my inventory.

Pet Peeves:

Politics – Why can't our Congressperson and Senators do thing for the citizens of the USA instead of the continuous "got ya game." I say we need term limits to eliminate the political class. Work for the people and then get out.

What I would do with a surprise afternoon off:

I would sit in the sun, absorb the rays, and have a cool drink.

I'm most proud of:

My family, friends, and my investigative accomplishments.

Most people probably don't realize:

I am outgoing, friendly and like people, but I am always busy. I have participated in the writing of two books, a screen pay, and have given a number of TV interview relating to the investigation of the disappearance of Madalyn Murray O'Hare. In addition, to my PI Practice, I am an Assistant Governor in Rotary and the Faithful Navigator for an Assembly of the Knights of Columbus. I enjoy giving back to the community through service to others.