

## Austin Area Chapter Association of Certified Fraud Examiners

### President's Corner

**Shari Daffern, CFE, CIA, CPA**

We had a wonderful turnout for the fall seminar! There were a few logistic issues with the room, but the speakers were all informative and interesting. Mike Garner has a thorough description of the speaker's topics in this month's newsletter. Thanks to those who attended the seminar. The money received will provide future scholarships.

The Board has selected Sunhee Kim as our scholarship winner this semester. Sunhee not only has excellent academic credentials, but is an accomplished pianist. She was highly recommended by a former employer and two UT officials. She is currently attending McCombs School of Business at UT Austin and plans to become an auditor with one of the Big Four firms.

Hope you have a great holiday season with your friends and family and managed to get in some well earned rest.



### 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, 6<sup>th</sup> Street

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

#### **This Month's Meeting**

Date: January 7, 2008

Speakers: Corrie Stokes, CIA, CGAP

**Topic:** Using Geographical Information Systems (GIS) for Analysis

register on line: [www.austinafce.com](http://www.austinafce.com)  
or

call 512/389-4813

### INSIDE THIS ISSUE

- 2 What You Missed and Board & Committee Members
- 4 Speaker's Biography

# What You Missed

## Mike Garner, CFE, CIA

If you were not able to attend the December 3, 2007 chapter fall seminar, you missed presentations on "Pharmaceutical Fraud" by Mr. John E. Clark former US Attorney and Justice for the 4<sup>th</sup> Court of Appeals; "Incident Response" by Mr. Aaron Hughes, Chief Executive Officer of IAC Secure Tech in Houston; "Governance, Ethics, and Transparency – So What!" by Mr. Phil Flora, Chief Audit Executive (CAE) at Texas Guaranteed (TG) and Mr. Dave MacCabe, recently retired CAE for Teacher Retirement System of Texas; and "An Internal Auditor's Approach to Fraud Deterrence, Detection, and Investigation" by Mr. Mike Garner, Director of Internal Audit at the Adjutant General's Department.

Pharmaceutical Fraud - Mr. Clark started his presentation by discussing the Federal False Claims Act and where he thought this was heading in the future. The original act was passed by congress on March 2, 1863 and allowed citizens to sue on behalf of the government and be paid a percentage of the recovery. It was amended in 1943 to reduce the citizen's (whistleblower or relator) share of the recovered proceeds, but it also added barring these suits if the government already had information presented by the citizen. This provision in effect stopped all false claims suits between 1943 and when it was amended again in 1986 to eliminate this provision. The reward to the citizen usually ranges from 15% to 25% of the amount recovered by the government depending on the extent to which the citizen or the citizen's counsel contributed to the prosecution of the case.

After the 1986 amendments strengthened the Act it was used primarily against defense contractors but by the late 1990's the focus had shifted to health care fraud, which now accounts for the vast majority of cases filed. Mr. Clark discussed a number of those cases involving pharmaceutical fraud including Bristol-Myers Squibb Co (\$515 Million settlement); Aventis Pharmaceuticals Inc. (\$190 Million settlement); Purdue Frederick Co (\$634.5 Million settlement); Sandoz Inc., Mylan Laboratories inc., and Texas Pharmaceuticals Inc. (\$190 Million settlement); and briefly discussed the top 20 recoveries to date ranging from #1 Tenet Healthcare at \$900 Million to #20 Pfizer/Warner-Lambert at \$152 Million. Since 1986 False Claims Act judgments and settlements have totaled over \$12 Billion.

The top 20 recoveries to date were all health care fraud filed under the Federal False Claims Act except for one. At number 16 BankAmerica paid a \$187.5 Million settlement

*Continued on page 3*

AUSTIN AREA CHAPTER OF  
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under the California False Claims Act. BankAmerica illegally kept unclaimed bond proceeds from the state of California and more than 1,000 cities, counties, and public agencies statewide. This is the largest state False Claims Act settlement to date. According to Mr. Clark there will be a much larger percentage of state False Claims Act in the future especially here in Texas where there is strong legislation in this area.

Incident Response: Electronic Data Handling Procedures

– Mr. Hughes started his presentation by discussing the wide range of information sources including Network Infrastructure, PCs, laptops, mobile devices, thumb drives, MP3 players, other USB drives and even Nintendo Wii. Things to look for include motives, behavior, personality, habits, and specific actions. Discussed state of mind behavior related to file access, network activity, and internet activity (focused on the individual's behavior). Controls discussion included what isn't there (gap analysis), who has access, are logs available, are they complete, and are proprietary issues addressed.

Mr. Hughes discussed pre-response decisions (partner with HR or Legal, unplug, slam door shut, notify the persons investigated, and who are the contacts), data characteristics (preserve, avoid cross contamination, avoid actions that cause change/loss, document preservation steps and chain of custody), and identify and document (photos, notes, etc.) all actions taken. Another pre-response decision may be to call in outside professional help.

Governance, Ethics, & Transparency – So What! – Mr. Flora and Mr. MacCabe provided definitions of governance, ethics, and transparency and provided an overview of the governance process. They discussed how a weak ethical culture increases the potential for organizational fraud and abuse and performed group exercises to help us better understand how this happens in the workplace. They identified challenges/barriers/indicators that show the impact of an ineffective governance process and gave examples for improvement; discussed leading practices in governance and ethics; and provided a list of reference materials for future use.

A simple ethical test for business decisions, developed by the Institute of Business Ethics, include transparency – do I mind others knowing what I have decided; effect – who does my decision affect or hurt; and fairness – would my decision be considered fair by those affected. A weak ethical culture includes no policies and procedures; different rules for different people; inconsistent

enforcement; apathy; weak tone at the top; retaliation against those reporting bad news; reactive versus proactive enforcement; limited training and awareness; limited board involvement in awareness training; no anonymous reporting process; and limited follow-up on reported ethics policy violations.

The seven signs of ethical collapse originally developed by Marianne Jennings, JD include pressure to maintain numbers – start with the numbers they want to report and work backwards making things fit; fear and silence – see the issue but remain silent to avoid being terminated or flat-lined within the organization; young 'uns and bigger than life CEO – surrounded by bootlickers, yes-men, and other useless idiots; weak board – consists of friends, other conflicts of interest, inexperienced, and lack the time to properly serve; conflicts – favoritism and nepotism; innovative and overconfident – so brilliant and innovative that mundane rules of accounting, corporate governance, and basic economics do not apply to us; and goodness atones for evil – as long as we do more good than bad we are okay.

Discussed the challenges, barriers and indicators of poor governance including lack of dedicated resources; short term versus long term planning; key people do not need to follow the rules that other employees follow; performance expectations take precedence over ethical issues; lack of core values; will not devote the time needed. Good governance takes tough enforcement of ethical violations (even with the people we know well and work with daily); clear accountability; and clear pervasive leadership at all levels.

Mr. Flora distributed the Red Flags of Fraud issued by the Institute of Internal Auditors and discussed the lessons learned including clear policies, rules, guidelines applied consistently to all employees; policies must be enforce; walk the talk; hotline; monitoring; training; promote the right perceptions; promote value based culture over rules; identify and address reasons for bad behavior; arms length vendors; information management and restrictions; promote independent oversight type board; communicate continually; and ensure accountability at all levels. We learn wisdom by reflection (noblest), by imitation (easiest), and by experience (the bitterest).

An Internal Auditor's Perspective on Preventing, Detecting, and Investigating Fraud

– Mr. Garner discussed the tools we have, as an organization, to fight fraud. The major tool is to have an effective Internal Audit operation that conducts surprise audits and provides awareness training (cuts fraud by 50%).

*Continued on page 4*

*What You Missed, continued from page 3*

General tools include the organization's systems of risk management, internal controls, and governance. Be aware of potential fraud schemes, warning signs, and red flags. Look for internal control weaknesses and report anything suspicious or unusual to Internal Audit. Identify and address the fraud risks (pressure/incentive, opportunity, and rationalization) as they relate specifically to our organizations. Develop and train employees on an approved Ethics Policy; promote governance; and sow the right thoughts, actions, and habits into the organization's culture.

Mr. Garner emphasized that you reap what you sow (cause and effect) and we should therefore use the systems of risk management, internal controls, and organizational governance to deter fraud and improve organizational performance. In any internal audit or investigation it is critical to fully understand how things should be (criteria) and how things are (condition). We should ensure that we do the research; interviews; and documentation and records reviews necessary to ensure a clear and complete understanding of these two critical elements. Interviews are usually the most important activity of any internal audit or investigation and cooperative teamwork between the auditor/investigator and each employee interviewed will help understanding of the condition and criteria and will significantly improve the process and the associated benefits to the organization.

## Speaker's Biography

### **Corrie Stokes, CIA, CGAP**

Corrie Stokes holds a bachelor's in Urban Studies and a master's in Public Affairs. She is a Certified Internal Auditor (CIA) and Certified Government Audit Professional (CGAP). Corrie is currently an Assistant City Auditor for Austin's Office of the City Auditor where she has worked since 1999. She has audited a variety of areas including health, transportation, taxes, and public safety. Several of these audits have involved using GIS as an analysis tool.

Corrie currently serves as chair of the Communications Committee of the Association of Local Government Auditors (ALGA) which is responsible for the association's quarterly journal and website. She is also an active member of the Urban and Regional Information Systems Association (URISA), an organization focused on using GIS in government, and serves as an evaluator for URISA's annual "exemplary systems in government" award. Recently, Corrie became an associate member of the National Association of Certified Fraud Examiners.