

Austin Area Chapter Association of Certified Fraud Examiners

President's Corner

Tracy Bohmer, CFE, CPA

Our fall seminar was a great success! The speakers were all interesting and provided a great variety of methods by which we can prevent and detect fraud. Thanks to you who attended the seminar. The money received will provide future scholarships. As we complete one seminar, we are already planning the next. Please let any Board member know if you hear of someone that might have something interesting to share with us.

Hope you have a great holiday season with your friends and family and managed to get in some well earned rest. Remember that due to the timing of New Years our January meeting will be Monday the eleventh.



Chapter Meeting Schedule

Time: 8:00 a.m. to 4:30 p.m.

Location: Catfish Parlour
4705 E Ben White Blvd

Cost: Luncheon Only:
\$12.00 – Chapter Member and
Non-Chapter Member

This Month's Meeting

Date: January 11, 2010

Speaker: Todd Townsend
Law Enforcement Specialist for Loss
Prevention with the Texas Municipal
League Intergovernmental Risk Pool

Topic: Loss Prevention

**register on line: www.austinacfe.com
or**

call 512-923-8656

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What You Missed

By Mike Garner, CFE, CIA

If you were not able to attend the December 9, 2009 chapter seminar, you missed the following presentations: "Fraud Risk Assessment by Mr. Bob Stiles, CFE, CISSP, CISA, Senior Technology Auditor, Texas Guaranteed Student Loan Corporation and Mr. Chance Watson, CIA, CISA, Audit Team Leader, Texas Guaranteed Student Loan Corporation (TG); "DPS Forgery Unit Investigations" by Mr. Dale Stobaugh, Documents Questioned Manager, DPS Crime Lab; "Fraud Detection" by Mr. Jim Ratley, President of the ACFE; "Mortgage fraud" by Capt. Forrest Mitchell and Lt. Daniel Guajardo, Office of the Attorney General; and "Civil and Bankruptcy Fraud" by Mr. Dan Ross, Bankruptcy Attorney.

Fraud Risk Assessment - Mr. Stiles started the Fraud Risk Assessment presentation with illustrations including Bernie Madoff's \$65 Billion Ponzi Scheme Fraud and the Chinese Milk Scandal where Melamine was added to milk so that it would show a higher protein content resulting in over 300,000 victims. The definitions of fraud included those from the IIA (any illegal act with the elements of deceit, concealment, or violation of trust), the ACFE (intentional act or omission designed to deceive others resulting in a loss to the victim or a gain by the perpetrator). The ACFE definition was more in line with the presentation's focus.

Mr. Stiles discussed risk (definition, example, and elements) and related it to the fraud risk assessment which is the probability that fraud will occur and the potential consequences to the organization when it occurs. He discussed accepting fraud risks and where to attack these risks (procurement, receiving, accounting, reporting, etc.). According to ACFE's 2008 Report to the Nation on Occupational Fraud and Abuse the breakdown of Occupational Fraud Schemes include corruption (26.9%), billing (23.9%), skimming (16.6%), non-cash (16.3%), check tampering (14.7%), expense reimbursement (13.2%), cash on hand (12.6%), fraudulent statements (10.3%), cash larceny (10.3%), payroll (9.3%), and register disbursement (2.8%). Although the frequency of fraudulent statements is only 10.3% the median loss is over \$2 Million compared with the next highest median loss of corruption which is only \$375,000. Therefore, the fraud risk assessment must take into consideration not only the frequency risk but also the effect risk (financial, legal, and political impact to the organization).

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AUSTIN AREA CHAPTER OF
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Although the controls added to address the risks identified in the fraud risk assessment may not be able to address a black swan problem (there is no such thing as a black swan until it happens – extreme statistical outlier events) more robust fraud controls will help address these events if they ever happen.

Mr. Stiles discussed the reasons for a fraud risk assessment (assists in efficient and effective use of anti-fraud resources, assists in identifying and addressing gaps in controls, and it is good for both the organization and the regulators); for allocating resources to fraud prevention and detection (due to the increase in both the frequency and dollar amount of frauds with the associated organizational and political fallout); for finding control gaps (in addition to preventing and finding fraud improved controls help the overall operations of the organization); and auditors/regulators will better appreciate the organization due to improved operational results, compliance, efficiency, accountability, and organizational confidence. Although morality cannot be legislated, behavior can be regulated (Martin Luther King, Jr.). Addressing Fraud, Risk, and Fraud Risk is very difficult but necessary but where do you start. According to Mr. Stiles the best way to address these very difficult, confusing, and complex fraud risk issues is just to leave it all up to chance. Therefore, he introduced Mr. Chance Watson to complete the rest of the presentation.

Mr. Watson started his portion of the presentation by discussing who should be gathering the information and where within the organization the information should be gathered. To gather the information he recommended developing a fraud risk assessment team composed of both knowledgeable audit personnel and appropriate high level management personnel. The information should be gathered from all applicable areas of the organization including internal audit, finance and accounting, legal, IT, security, and other key functions within the organization.

It should be conducted annually and TG does this at the same time as their annual audit risk assessment. The Fraud Risk Assessment process should include the identification of fraud factors; the identification and prioritization of potential fraud schemes/scenarios; matching existing controls to the prioritized fraud schemes/scenarios; identifying significant gaps; testing operational effectiveness of the fraud preventative controls; and documenting and reporting on the completed fraud risk assessment. Mr. Watson provided more detailed information on each of these fraud risk assessment process steps and closed by providing examples and resources related to these steps.

DPS Forgery Unit Investigations – Mr. Dale Stobaugh discussed the questioned documents submitted to the Department of Public Safety. The Questioned Documents (QD) Section examines original handwriting specimens from checks, wills, suicide and threat letters, forgeries, voter fraud documents, etc. Other types of analyses include typewriter (paper fiber transfer, wear patterns, and fracture patterns); photocopier and ink comparisons; fraudulent tickets, documents, and rubber stamps; head lamp/turn signal examinations; trash bag comparisons; and obliterated data restoration. All QD suspect exhibits must be accompanied by a known standard (or exemplar) for comparison purposes. The Forensic Digital Image Processing System enables examiners to digitally enhance and extract critical information from obliterated specimens, otherwise unsuitable by present conventional means. The Questioned Documents Section also performs computer data recovery examinations.

Mr. Stobaugh focused his presentation on documents but also touched on computer data recovery examinations (when recovering the information on a computer be sure to unplug the power cable from the computer and not from the wall). He discussed handwriting (questioned signature or writing compared to genuine writing of suspect); typewriting (questioned typewriting examined against samples of suspect machines); latent writing impressions (identification of indented writing impressions); obliteration (restoration of obliterated text); physical match (torn paper edges); mechanical printing/photocopier identification (origin of anonymous machine printed letters); alteration (microscopic and infrared examinations and chromatographic analysis of ink); questioned sequence (line crossing to determine which writing was placed on the document first); and trash bag identification (matching trash bags collected at crime scene to trash bags collected at suspect's house).

Fraud Detection – Mr. Jim Ratley, President of the Association of Certified Fraud Examiners (ACFE) started his presentation by informing the group of the status of the ACFE and in a word the status is wonderful. Another record breaking Annual Conference was held in Las Vegas this past summer with over 2,300 in attendance; there are over 50,000 members; the association has 60 employees; and Bernie Madoff has helped to put a clearer face on fraud.

Mr. Ratley discussed in general terms his extensive background in law enforcement and with the ACFE and then went into a short story of when he first started working at the police department. He was fresh out of high school and they assigned him to the property room.

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With this assignment he had about 45 keys which he kept on a ring and would show off while on the job. One of his responsibilities was to dispose of weapons. He had no problem with this and would take the weapons to the disposal location and throw them in the machine to grind them up. He just disposed of the weapons and did not fill out any paperwork when he destroyed them.

Then he was provided with Ivory Handled Colt 45 Revolvers in mint condition with consecutive serial numbers. These revolvers were worth at that time between \$15,000 and \$20,000 and he was making \$315 a month. It was not their worth that tempted him but the revolvers themselves and he did not want them destroyed. Instead of taking the revolvers for destruction that day he held them for a while and started thinking about what to do. He knew that if he took them there was no way anyone would know. He even asked his supervisor why these needed to be destroyed and his supervisor said they must be destroyed to keep them out of the hands of criminals. He rationalized that he was not a criminal and so he could meet this objective. What he couldn't get past was that this was stealing. He had stolen 50 cents from the top of his parent's dresser when he was a kid and he and his friends had an ice cream party with this money. His mother found out and started whipping him and told him that she would whip him seven days a week for the rest of his life but she was not going to raise a thief. Therefore, he could not bring himself to take something that he could not justify was not theft. So he ended up destroying the revolvers.

A couple of months later he was called in to Internal Affairs and he did not know what it was about but assumed they wanted information from him to help in one of their investigations. After he took a seat the investigator started reading him his rights. This scared him so much that he could not even remember anything after him saying "you have the right to" he then wet his pants and was ready to confess every sin that he had every committed since he was born. It happened that this involved another one of the property personnel and had nothing to do with him. Still he confessed to the investigator that he had been tempted to steal the Colt 45 Revolvers with consecutive serial numbers but ended up destroying them. The investigator said "You did what?"

He used this story to illustrate that a boy out of high school should never have been given the responsibilities and authority that he was given without additional internal controls being put in place to help prevent and provide early detection of any wrongdoing. He briefly discussed the fraud triangle of 1) Pressure or Incentive; 2) Opportunity and Capability; and 3) Rationalization. If the organization can take any one of these three things away the fraud will not be committed.

Mr. Ratley did not take the revolvers because he could not get past the word stealing. Although he was not able to do this, others might because they did not receive the whippings as a child that would help prevent them from rationalizing this as something other than theft. He then discussed one organization's fraud where the employee took over \$2.5 Million. This employee was by far the best they had and was liked by everyone there. No one could believe that he was capable of this fraud. The employee could rationalize the fraud because he felt, based on his performance, he was entitled to this money.

Mr. Ratley discussed the importance of an independent hotline. When high level managers are suspected it is difficult to report them due to potential retaliation. We also need to be thinking fraud when we see something going on that does not make sense or is unusual. He then touched briefly on each of the following topics: reporting activities – employees should know how and where to report suspicious, unethical, or illegal behavior; hotlines – most effective means of detecting frauds; employee education – make sure they know what actions constitute fraud and how to report it; increase the perception of fraud detection – make sure employees know the organization is serious about preventing and detecting fraud; proactive audit policies including the increase use of computer assisted analytical procedures; fraud assessment questioning – fraud risk assessment technique; surprise audits where possible and practical; enforcement of mandatory vacations; job rotation; fraud policy; and communicating the fraud policy.

Mortgage Fraud - Capt. Forrest Mitchell and Lt. Daniel Guajardo from the Special Investigations Unit (SIU) at the Office of the Attorney General provided a presentation on the types of mortgage fraud that they investigate.

The Special Investigations Unit (SIU) was started with a grant from the Governor's Criminal Justice Division and is now part of the Criminal Investigation Division of the Office of the Attorney General. SIU currently has 30 employees and they investigate a variety of white color crimes. Through training they help police departments, sheriff's offices, and district and county attorneys successfully identify, investigate and prosecute various types of fraud offenses.

The Special Investigations Unit responds to a variety of law enforcement challenges throughout the state. The Unit investigates a wide variety of cases, including violent crimes and white-collar crimes, such as fraud cases including mortgage fraud, public corruption matters, and Election Code violations. The Unit also responds as needed to events around the state. For example, during Hurricanes Katrina and Rita, the Unit provided resources on the ground to combat price-gouging and consumer fraud.

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Mortgage fraud is a criminal offense and primarily involves fraud against mortgage lenders. Generally speaking, it occurs when facts are misrepresented: the value of a house is inflated, or the lender is misled about the buyer's income, credit history or financial situation.

The fraud can involve the mortgage broker, real estate agent, appraiser and/or the buyer. The result is that too much money is loaned, and the house is not worth what the buyer -- and ultimately the lender -- paid for it. Mortgage fraud bilks financial institutions, but it can also be devastating for borrowers and their families. It is having a broad negative effect on our economy, property values, and financial markets. It is, moreover a criminal offense. Thanks to a veritable epidemic of mortgage fraud in an overheated housing market, many thousands of Texas homeowners are facing possible foreclosure. The Office of the Attorney General has mobilized to make every attempt to avert this looming crisis.

HB 716, passed in the 2007 legislative session, directs the Attorney General to establish a Residential Mortgage Fraud Task Force to investigate and prosecute residential mortgage fraud and the perpetrators of mortgage fraud statewide. The task force is headed by the Attorney General and includes the Consumer Credit Commissioner, the Banking Commissioner, the Savings and Mortgage Lending Commissioner and other state officials. This task force is charged by HB 716 "to take a proactive stance towards tracking and prosecuting mortgage fraud and the perpetrators of mortgage fraud statewide." HB 716 also grants the OAG concurrent jurisdiction, with the consent of a county or district attorney, to prosecute mortgage fraud. Task force members will be sharing information and resources to help crack down on mortgage fraud.

In the midst of the foreclosure crisis, scam artists try to profit by offering fraudulent "mortgage rescue" services. Many of these services collect fees from consumers at risk of foreclosure and make promises that they will prevent the foreclosure. Instead they often speed the foreclosure process by taking excessive fees and advising the consumer to avoid speaking to their lenders to try to resolve their problems. The Office of the Attorney General is cracking down on foreclosure scams as swiftly as they come to their attention. Do not believe a salesperson who tells you that he or she can avert the foreclosure of your home for a fee.

Some of the documents that they examine during mortgage fraud investigations include closing forms (HUD-1 Settlement Statement); Mortgage loan applications and supporting documents; appraisals; business records; payment records; bank transactions; etc. At the start of the investigation they identify the players including the buyer, seller, real estate agent, appraiser, mortgage broker, title company agents, and representatives of the lending institution.

Any are all of these players can be involved in the fraud. Briefly discussed a number of fraud scenarios. Straw buyers consent that their names and personal details are used by certain people with the purpose of obtaining mortgage loans with no purpose of ever inhabiting these homes.

Civil and Bankruptcy Fraud - Mr. Dan Ross, Bankruptcy Attorney discussed one case in which he was involved and took it through from the start to the end. This case involved an elderly husband and wife and an adult daughter. The wife was placed in a nursing home due to her health issues and the husband was left home alone to care for himself. When his daughter would visit him he seemed listless and forgetful so she took him to the doctor. The doctor prescribed medication that could help. The pharmacy that filled the prescription filled at five times the dose prescribed. After ten days time the husband became nearly comatose. The daughter was convinced it was the medication and took this to the doctor who stated it was much more than what he had prescribed. As a result the husband had to go to the nursing home and the daughter sued the pharmacy for the damage done to her father's health.

The pharmacy finally agreed that there was potentially a legitimate claim against them and came to a settlement. Part of the settlement was that they needed to see the husband's medical records to verify that there was some damage. The medical records were at the nursing home. Therefore, Mr. Ross as the lawyer representing the daughter requested copies of the medical records from the nursing home. The nursing home said no. The daughter then obtained a court order for release of the records from the nursing home. The nursing home said no. She then sued the nursing home and they ignored the lawsuit.

The daughter was able to obtain a \$1.7 Million judgment on the nursing home for failing to comply with the court order to provide the medical records. In the meantime the lawsuit with the pharmacy was settled without the medical records. The nursing home still refused to provide the medical records and said they would declare bankruptcy if they continued with the suit. The nursing home then made an offer to settle the suit and avoid bankruptcy for \$48,000. The daughter did not agree to this settlement amount and the lawsuit continued.

The owner of the nursing home was hidden behind several shell companies and when it was determined who owned the nursing home the lawsuit was amended to include him. The husband and wife were then kicked out of the nursing home and sent to the daughter. She did not even know this was happening and they were at her door in ambulances with no place to go. She then had to find another nursing home and the lawsuit continued. Many years later the lawsuit was finally settled out of court. By this time both the husband and wife had passed away. The moral of this case was to just do the right thing regardless of whether it is ordered by the court and if it is ordered by the court follow that order.

Speaker's Biography

Todd Townsend

Todd Townsend holds an Advanced Peace Officer License as well as many other law enforcement instructor certificates. Mr. Townsend has over eighteen years experience in public safety. Mr. Townsend has been with TML-IRP for the last 9 years specializing in Law Enforcement Risk Management. Mr. Townsend holds a Master Instructor certificate in Use-of-Force Simulator operations.

The Spotlight's On You!

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

Steve McGee has been a member of the
ACFE

for the past 5 years.

But maybe you didn't know...



Job Description: I am an Audit Manager with CHAN Healthcare Auditors. We are the internal auditors for the Seton Family of Hospitals in and around the Austin area and I perform operational and compliance audits and internal investigations.

What I'm working on now: An audit of Research Administration's compliance with IRB regulations.

Best part of my job: Interacting with the people that I audit and that I work with every M-F.

Ambition and/or Goals: To get the most out of every single day.

Years in audit field: 28 years

My first job: I delivered newspapers around my neighborhood.

Hobbies: I try to spend as much time with my wife and kids as I can.

Favorite Movie: I don't have "a" favorite movie. I do have movies that I like depending on the genre. By "favorite" I am picking the movies based on whether I would watch them over and over again. Here's a few: Kelly's Heroes, The Dirty Dozen, The Sting, Blazing Saddles, Young Frankenstein, and more recently the Bourne Trilogy.

Last books I read: The Purpose Driven Life by Rick Warren

Favorite foods: BBQ or Pizza

Favorite Restaurants: Rudy's or Austin Pizza at Parmer & 1431

My pet(s): Two dogs – one from the Shelter and one we picked up running around the vacant soccer fields and wasn't claimed.

It's a good day when: When I wake up and can get out of bed.

Pet Peeves: Drivers not using their turn signal.

What I would do with a surprise afternoon off: Relax at home with a good hot cup of coffee.

I'm most proud of: My kids - a daughter at TAMU and a son at Hyde Park HS.

Most people probably don't realize: I moonlight as an Assistant Scoutmaster for my son's Boy Scout Troop.

Annual Fall Seminar Speakers



Chance Watson



Dan Guajardo



Dale Stobaugh



Bob Stiles



Dan Ross



Forrest Mitchell



Jim Ratley