

Austin Area Chapter Association of Certified Fraud Examiners

President's Corner

Shari Daffern, CFE, CIA, CPA

The first year of my term is almost complete. It has been a great pleasure to work with the Chapter Board members. Each Board member has stepped up to the plate and provided the time, expertise, and unique prospective that has enabled our Chapter to have such a successful year.

Below are some of our accomplishments:

- Established the Chapter web site
- Afforded the President with the opportunity to attend the Chapter leadership meeting at the ACFE Annual Fraud Conference
- Updated the Chapter by-laws
- Hosted two eight-hour fraud seminars
- Awarded scholarships to five outstanding students
- Provided membership with nine monthly opportunities for networking and fraud training
- Produced monthly newsletters containing information and recaps of speaker presentations
- Introduced the "Spotlight on a Member" section of the newsletter

The continued participation of our members is what drives the success of our Chapter. I've enjoyed the inter-

Continued on page 2

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

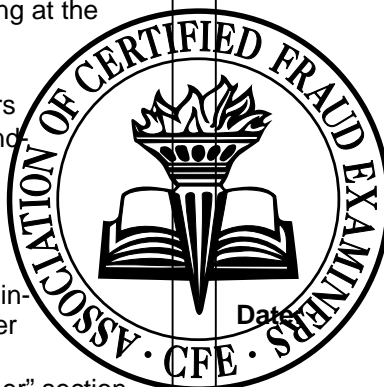
Date: May 7, 2007

Speaker: Aaron Hughes, CFE
IAC SecureTech

Topic: SOX

register on line: www.austinafce.com
or

call 512/389-4813



INSIDE THIS ISSUE

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

President's Corner, continued from page 1

interaction with the members, potential members, and speakers. It is always interesting to find out what colleagues are involved in. I look forward to next year.

May's meeting will be the last until September. The Board will continue to meet during the summer make plans for next year. We already have some exciting speakers lined up for the fall. Hope you all have a great summer!

What You Missed

Mike Garner, CFE, CIA

If you were not able to attend the April 2, 2007 chapter meeting, you missed a presentation on Basic Red Flags and Fraud Tips by Ms. Linda Newsom, CFE. Ms. Newsom retired on August 31, 2005 from the Special Investigations Unit at the Texas State Auditor's Office (SAO) with nearly 29 years of state service. Her passion continues to be fraud investigation and she has recently started applying for employment in this area. Her presentation focused on questions she has been asked during her recent interviews for fraud investigator positions.

Ms. Newsom was involved in auditing at the SAO for a number of years before she got involved in fraud investigations. In 1991 she took a two-year assignment in the SAO's Investigative Audit Group and immediately knew she had found her place in the world of accountability enforcement. As an auditor, she was not seeing any significant impact or changes at the agencies as a result of audit findings and reports, but as a fraud investigator, the impact was immediate and she knew her efforts were "Making a difference in State Government". By the time she retired she was working on four major fraud investigation cases involving top management at large state agencies.

Ms. Newsom briefly discussed her first fraud case which involved Travel Voucher Fraud. During this investigation she touched on most of the elements of fraud and discussed those with us (employee for a long time, personal financial pressure, became friends with the hotel clerks, good friends with the Chairman of the Board, etc.). Although there was not much money involved in the fraud (about \$15,000) she investigated and documented every

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
hhsc.state.tx.us
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

questionable item. In preparing the case and going through prosecution she learned the following: she identified more fraud than was necessary (based on the prosecution dollar thresholds); it is difficult to interest prosecutors in travel voucher fraud (they are assuming that everyone does some fraud in this area); you must understand what happened well enough to be able to present it in a simple manner (KISS); and where audits are wide and shallow investigations are narrow and deep.

She was able to get her first case prosecuted in large part because she was able to make a clear and simple presentation of the fraud committed. The traveler had been very innovative in her approach in falsifying her travel vouchers. She started the fraud by paying cash to the hotel, obtaining cash receipt, then making an excuse, checking out, and receiving a cash refund. She would then commute to the job and file a travel voucher as if she had stayed at the hotel and using the cash receipt as documentation. The traveler then took invoices from the hotel and started preparing her own documentation as if she had stayed at this hotel.

Ms. Newsom's presentation then shifted to some of the questions she had been asked during her recent employment interviews for fraud investigator positions. When she answered these questions during the interview she was somewhat surprised to learn that those conducting the interview did not seem to know the true answers to the questions they were asking her.

Therefore, she thought it would be helpful for us to discuss some of these questions.

What are the three components that are the bases of most white-collar crimes? The answer to this is Pressure, Opportunity, and Rationalization. These are the three points of the Fraud Triangle first introduced by criminologist Dr. Donald Cressey. Dr. Cressey emphasized that there must be three factors present at the same time for an ordinary person to commit fraud.

- The first of these points in Pressure - This pressure is usually somewhat embarrassing in nature so that the employee does not feel comfortable discussing the pressure and asking for help. This pressure could include personal financial problems; personal vices such as gambling, drugs, extensive debt, etc; and/or could include unrealistic deadlines, performance goals, peer competitions, etc.

- The second of these points is Opportunity – They must feel that they have the knowledge, skills, and disciplines necessary to commit the fraud and to conceal it. They may perceive that they have found weaknesses in the agency's risk (identification of control vulnerabilities), control (separation of duties, supervision and review, management approvals), and governance (ensure that controls processes are communicated, understood, and followed) processes that would allow this fraud.
- The third of these points is Rationalization – They must be able to justify that committing this fraud is acceptable.

What is the difference between a preponderance of the evidence and evidence beyond a reasonable doubt? The answer to this is the difference between civil and criminal liability. To prove civil liability there must be sufficient evidence to lead a reasonable person to believe that the suspect had broken the law. To prove criminal liability there must be sufficient evidence that proves "beyond a reasonable doubt" that the suspect did in fact commit a crime.

In Texas law, what are the four possible culpable mental states that a definition of the offense requires? These four mental states are intentional, knowing, reckless, and criminal negligence.

What are the basic elements of all white collar offenses? These basic elements include a culpable mental state (intent, etc.); disguise of purpose (false information or misrepresentations); reliance by the offender on the ignorance or carelessness of the victim; voluntary victim action that proves fiduciary capacity (company entrust the care of assets to the offender); and concealment of the offense.

What is fraud examination methodology? This requires that all fraud allegations be handled in a uniform legal fashion and be resolved on a timely basis. It must be conducted only with adequate cause or predication (to protect the individual rights of others). The process includes reviewing documentation, interviewing witnesses, analyzing information, assembling evidence, writing reports, and dealing with prosecutors and the courts.

Can a fraud be prosecuted criminally and civilly? Yes, criminal actions are brought by the government acting

Continued on page 4

through the prosecutor's office. They are usually investigated by law enforcement agencies and evidence can be subpoenaed before charges are made to determine whether an offense has occurred. Civil actions may be brought by private individuals or organizations, usually without the involvement or permission of the government or court. There is no opportunity to compel the production of testimony or other evidence until a complaint is filed.

What are common legal defenses to explain away criminal or civil guilt or civil damages? These include alibi, consent, trivial, duress, ignorance, mistake, infancy, insanity, protection of property, self defense, public duty, legal impossibility, protection of others, necessity, and entrapment.

Ms. Newsom closed by answering a number of questions including that she has not had to testify in court. She has presented evidence to grand juries but there was nearly always a plea bargain agreed to before it went to court. Ms. Newsom is currently working as an independent consultant primarily helping small business owner and individuals get organized. You can reach her at txnewsom@hotmail.com or by calling 512/301-5997.

The Spotlight's On You!

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



*Mike Phillips has been a member of the Chapter
for the past 10 years.*

But maybe you didn't know...

Job Description:

Investigating Auditor for Office of Attorney General, Medicaid Fraud Control Unit.

What I'm working on now:

\$450,000 plus theft of nursing home resident's monies.

Best part of my job:

Defending the elderly who cannot defend themselves.

Ambition and/or Goals:

Start a new career with new challenges, hopefully in the near future.

Years of State service:

25 years Retired/rehired

My first job:

At 8, helper @ Phillips and Son Welding in Abilene at \$2.00 per day

Hobbies:

7 Year old son's baseball, golf

Favorite Movie:

Gone With The Wind

Last book I Read:

Children books (2nd grade level nightly)

Favorite foods:

Mexican. Steaks. Steaks. Steaks.

Favorite Restaurants:

Matt's El Rancho. Perini's Steakhouse in Buffalo Gap, TX.

My pet(s):

12 year old 3.5 pound poodle, 12 year old border collie mix & Tokay geko (I only claim the collie mix)

It's a good day when:

Most of it goes smoothly.

Pet Peeves:

Anyone victimizing others.

What I would do with a surprise afternoon off:

Play golf

I'm most proud of:

My family.

Most people probably don't realize:

That the 7 year old with me is not my grandson.