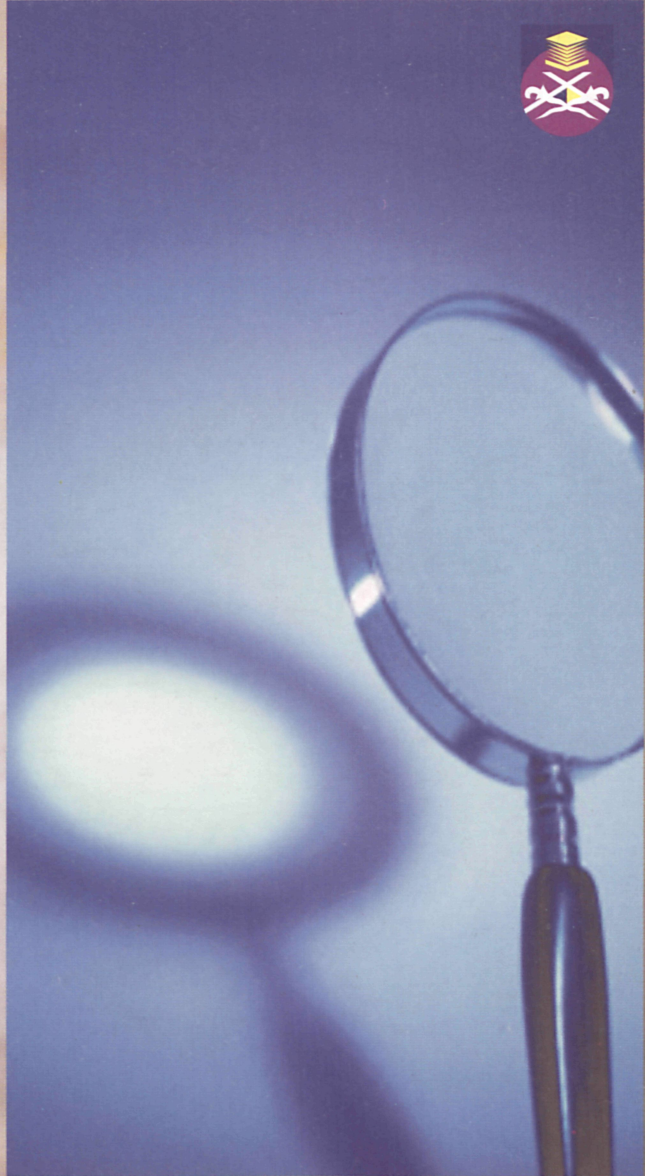


PROSIDING
KOLOKIUUM
UNIVERSITI TEKNOLOGI MARA CAWANGAN PAHANG
2002 - 2003



ISSN 1675 - 8919

Diterbitkan oleh
UPENA
Universiti Teknologi MARA Cawangan Pahang
Lintasan Semarak
26400 Bandar Jengka
Pahang Darul Makmur
Tel: 09-4602000
Faks: 09-4602455
www.uitm.edu.my

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ISSN 1675-8919

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Facts mean nothing unless they are rightly understood, rightly related and rightly interpreted.

R.L.Long

INTRODUCTION

Forensic and investigative accounting is a relatively new and evolving discipline, with its primary growth in the last two to three decades. Its roots, however, are based on the principles, practices, and approaches that have been in place for some time. There is still flexibility as to the final make-up and application of the principles, practices, and approaches that will ultimately define the profession. This is the challenge to the imagination and creativity of the forensic accounting practitioner.

The profession is still seeking out its final breadth and depth of utility to management, in government, industry, and commerce; to law-enforcement authorities; and to legal profession, including the courts. On the basis of its past contribution, it is envisaged that the profession will have the potential of making a meaningful contribution, relative to any specific scenario.

Fraud had been the cornerstone of the profession. Though fraud established the precedence, forensic accountants talents can be utilized to any 'risk scenario', wherever the perceived risks warrant further examination, evaluation, analysis and review.

Why is forensic accounting needed now? It is primarily because of the *proliferation of regulatory and criminal statutes and laws* to deal with real problems in government, business, and society; *abuse or partial or noncompliance of the regulations and laws*; and as *people of responsibility and accountability resort to unethical practices*.

The intended colloquium articles are designed for the following distinct audiences:

- ❑ those of you who need the enlightenment and awareness on the subject matter, thereby ensuring that the expectation gap is narrowed,
- ❑ those of you considering the possibility of attempting to become forensic accountants,
- ❑ those of you who would be spurred to undertake research on the subject,
- ❑ those of you who belong to the faculties of accounting, auditing, taxation, management, consider utilizing forensic accounting as a 'tool', towards achieving a broad understanding of management disciplines, developing strong interpersonal skills, and develop analytical skills.

WHAT IS FORENSIC ACCOUNTING?

Forensic accounting, is the integration of accounting, auditing and investigative skills – with the aim or purpose of providing ‘in-depth accounting analysis’ that is suitable to the courtroom setting, which will form the basis for discussion, debate and ultimately dispute resolutions. Forensic accounting encompasses both ‘Litigation Support’ and ‘Investigative Accounting’. Equally critical is the ability of the forensic accountant to respond immediately and to communicate financial information clearly and concisely.

FORENSIC INVESTIGATION

Forensic investigation is the utilization of specialized investigative skills in carrying out an inquiry conducted in such a manner that the outcome will have application to a court of law. A forensic investigation may be grounded in accounting, medicine, engineering or some other discipline.

FORENSIC AUDIT

Forensic audit is an examination of evidence regarding an assertion to determine its correspondence to established criteria carried out in a manner suitable to the court.

FORENSIC AND INVESTIGATIVE ACCOUNTING

The best definition that I have seen is:

Forensic and investigative accounting is the application of financial skills and an investigative mentality to unresolved issues, conducted within the context of the rule of evidence. As a discipline, it encompasses financial expertise, fraud knowledge, and a strong knowledge and understanding of business reality and the working of the legal system. Its development has been primarily achieved through on-the-job training, as well as experience with investigating officers and legal counsel.

INTERNAL AUDIT

Internal audit is performed by the organization’s employee, who examines operational evidence to determine whether the prescribed operating procedures have been followed.

EXTERNAL AUDIT

External audit is performed by an auditor engaged in public practice leading to the expression of a professional opinion which lends credibility to the assertion under examination.

LITIGATION SUPPORT

Litigation support provides assistance of an accounting nature in a matter involving existing or pending litigation. It deals primarily with issues related to the quantification of economic damages – calculating the economic loss resulting from a breach of contract.

INVESTIGATIVE ACCOUNTING

Investigative accounting is associated with investigations of criminal matters – employee theft,

WHAT DOES A FORENSIC ACCOUNTANT DO?

A forensic accountant is often retained to analyze, interpret, summarize and present complex financial and business related issues in a manner which is both understandable and properly supported.

Forensic accountants can be engaged in public practice or employed by insurance companies, banks, police forces, government regulatory bodies and agencies, inland revenues board, biro pencegah rasuah, securities and exchange commission, lawyers, courts, business community and other organizations.

A forensic accountant is often involved in the following:

- investigating and analyzing financial evidence;
- developing computerized applications to assist in the analysis and presentation of financial evidence;
- communicating their findings in the form of reports, exhibits and collections of documents;
- assisting in legal proceedings, including testifying in court as an expert witness and preparing visual aids to support trial evidence;
- investigation of white-collar crimes (particularly those involving commercial banks, savings and loans, stock market failures and manipulations);
- review data accumulated for budgetary and strategic planning purposes;
- evaluate data relative to a possible acquisition or merger;
- evaluate data relative to actual performance;
- evaluate data on a product or service, relative to continuing to offer same or introducing same;
- resolve shareholders and partnership disputes;
- quantify the economic losses resulting from a motor vehicle accident;
- investigate cases of medical malpractice and calculating the resulting economic damages;
- detailed review of insurance policies to investigate coverage issues and appropriate method of calculating the loss;
- investigation on fund tracing, asset identification and recovery, forensic intelligence gathering and due diligence reviews;
- tracing, locating, valuation and evaluation of business, property assets in matrimonial disputes;
- resolving business economic losses related to contract disputes, construction claims, expropriations, product liability claims, trademark and patent infringements and losses stemming from a breach of a non-competition agreement;
- investigate professional negligence related to technical and loss quantification;
- act as mediation and arbitration counsels in alternative dispute resolution.

In order to properly perform these services, a forensic accountant must be familiar with legal concepts and procedures. In addition, he must be able to identify substance over form when deal-

with an issue.

TYPICAL APPROACH TO FORENSIC ACCOUNTING ASSIGNMENT

- ❑ Each forensic accounting assignment is unique. Accordingly, the actual approach adopted and the procedures performed will be specific to it. However, in general, many forensic accounting assignments will include the steps detailed below:
- ❑ meet with the client,
- ❑ perform a conflict check,
- ❑ perform an initial investigation,
- ❑ develop an action plan,
- ❑ obtain the relevant evidence,
- ❑ perform the analysis
 - calculating economic damages,
 - summarizing a large number of transactions,
 - performing a tracing of assets,
 - performing present value calculations utilizing appropriate discount rates,
 - performing a regression or sensitivity analysis,
 - utilizing a computerized application such as a spreadsheet,
 - utilizing charts and graphics to explain the analysis.
 - Prepare the report – which includes:
 - the nature of the assignment,
 - the scope of the investigation,
 - approach utilized,
 - limitations of scope,
 - findings,
 - opinions,
 - schedules and graphics necessary to properly support and explain the findings.

CHARACTERISTICS OF A FORENSIC ACCOUNTANT

Only those who have the patience to do simple things perfectly will acquire the skills to do difficult things easily.

Johann Schiller

A capable forensic accountant should have the following characteristics:

- ❑ curiosity;
- ❑ persistence;
- ❑ creativity;
- ❑ discretion;
- ❑ organization;
- ❑ confidence;
- ❑ sound professional judgement.

A forensic accountant must be open to consider all alternatives, scrutinize the fine details and at the same time see the big picture. In addition, a forensic accountant must be able to listen effectively and communicate clearly and concisely.

THE LITMUS TEST

Men must be honest with themselves before they can be honest with others. A man who is not honest with himself presents a hopeless case.

William J.H.Boetcker

Out there in the real world, many perpetrators of crime (including Al Capone) tend to leave some clue(s) for the forensic accountant to follow up and catch up with them. Common sense, observation, alertness, study of psychology and perpetrators behavior, has unsurprisingly lead to a set of apparently frivolous traditional clues, forensic accountants to investigate on a case. The list is as follows:

- personalized number plates on the Rolls/Mercedes/BMW
- company flagpole
- fountain in the forecourt
- fish-tank in the board-room
- founder's statue in reception
- beautiful new office
- beautiful new secretary
- company yacht/aircraft
- fast-talking managing director
- directors who use military titles
- obsession with tax avoidance
- too many board papers
- no accountant on the board
- too many auditors
- too friendly with the banker
- too many bankers
- two wives/mistress/illicit relationships
- flamboyancy/philanthropist
- autocratic/dictatorial directors

The list is exhaustive but not comprehensive. Look out for the behavior pattern(s) of the white-collar and blue-collar crime perpetrators.

SEVEN DEADLY SINS

What has been called the human element is an essential and creative part of the business world. Companies succeed because human ingenuity has identified an opportunity and has created a mechanism to exploit it. Though the human element has its positive and creative side, the human element has its negative and destructive aspect too. They can cause corporate collapses by their

direct effects of the dark side of the human condition (referred to as the seven deadly sins). They are:

- Greed
- Pride
- Sloth
- Lust
- Envy
- Gluttony
- Wrath

With painful regularity, the commercial world demonstrates that collapse does not happen – it is caused. Almost invariably, it is caused by senior management. Insolvency is the result of specific sets of circumstances and specific conduct by executives.

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