

MFAcc Presentation

First Segment: 20 minutes

Question: How did I get started in forensic accounting? Answer: It was accidental.

Fall 1971, audit senior at Touche, start with some background:

Approach by Brian, Mgr in Bankruptcy introduced himself and said, let me know when you have a problem with the audit partner. OK.

I had just won the Ontario Car Rally Championship, and I had just returned from a rally in Portugal in October 1971.

Fast forward into mid-January 1972 (53 years ago)

Audit season and Ted Clark my audit partner called me into his office: bottom line, I need to choose between being a professional CA or car racer. I said to myself, this is easy!

February 1, I am now working for Brian in the Bankruptcy group. Brian gave me a draft of his report entitled 'Public Inquiry into the Collapse of Atlantic Acceptance' and asked me to proof read it.

By way of background, in June 1965 'Atlantic', a major Canadian finance company with C. Powell Morgan as President failed... The Report stated the collapse represented a loss of some \$70 million and labeled Morgan as inventive, ingenious, incompetent, corrupt and a swindler. In one day, one amount of \$750,000 was processed through six transactions called "A Financial Merry-Go-Round."

My reaction? This is fun!! Then, with a new investigation, Brian told me to head up to an office located at University and Dundas to meet with the RCMP Commercial Crime to help them on a stock market fraud with its own terminology: warehousing, wash trading, running a box, back-dooring, flogging. More fun!! Plus, no more audit overtime, explain 8 – 4 with breaks.

This was sort of a start of my forensic career. But it did not become a reality until three years later.

Our practice evolved of serving not only the RCMP Commercial Crime but also the OPP Anti-Rackets and the Metro Toronto Fraud Squad. Here are a couple experiences up to the end of 1974:

1973 Regina vs. Harold Ballard

This was the first case in Toronto to answer the question as to whether there is one law for the rich and a **different law for the poor when a high profile person** in the community is the subject of a major fraud. Harold Ballard was the owner of the Toronto Maple Leafs.

Working in Maple Leaf Gardens with his staff not happy was to be expected, but they had no choice as I identified vendor invoices that were later determined to be fraudulent – with wedding expenses charged to the Gardens' hockey stick expense account.

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This was my **first experience with a high profile case** and it proved to be great training particularly learning how to work within the confines of the accused premises. And yes, only one law as the accused was found guilty and received a three-year sentence.

1974 Regina vs. Parks

County Engineer in Owen Sound who rented out County equipment for himself.

In January 1974, this case gave me the opportunity **to sit with Crown Counsel** Rod McLeod at the table through a jury trial. Once again as the **last witness, I gave fact evidence** of financial transactions regarding the acts of the accused Don Parks as the County Engineer.

The Defense argued against the use of an **overhead projector and lost**. The Defense also argued against the **introduction of accounting schedules** and lost. The presiding Judge Garth Moore ruled the accounting schedules admissible given what he described as the **“veritable blizzard of documents.”** My schedules were essentially chronologies listing the financial transactions related to each charge. Parks was off to jail.

What was your training? It just happened, it was good fortune, good fun. As I look back, my role in every case, be it criminal, civil, corporate or foreign government, was to meet the client, listen to their concerns and identify the next logical step. For example, in my foreign government cases, I would study the political history before my first meeting with the client so I knew names and context. But, by beginning in the criminal world, I was able to learn in a logical way as follows:

- Assess the concerns with the available documents and identify and prioritize the missing documents, like a sudoku puzzle.

- Write the search warrant information to develop the ‘reasonable and probable grounds’ the easiest warrant to execute was issued to banks while the more difficult to execute warrants at businesses, required my attendance with the police to ensure the correct documents were seized.

- Then examine the new documents, identify next steps, more docs and ‘persons of interest’ from fringe players to the targets, looking for potential roll-overs, etc. Then prioritize and attend interviews with the required documents.

- Constant update of findings, meeting with the police and Crown Counsel and eventually being the Crown’s last witness to present essentially a chronology of facts with documents, a summation witness.

- Knowledge of accounting, business, record-keeping, gain a knowledge of fraud, from mis-representation to material omission but more importantly a knowledge of human nature, in particular, deception.

In early Fall 1974 I could see the end of our practice. Brian had been over-looked for partnership and soon resigned. A few months earlier, in June 1974, Brian was my ‘Best Man’ at our wedding. I let some time pass, but it was easy to decide that if Brian did not qualify and I certainly did not qualify. I resigned a month later, and our partner Al Moreton, asked me to write a book on fraud. I passed on that request.

My wife and I decided to purchase a home in Acton, Ontario in Fall 1974 and on January 1, 1975 I started my general practice in town as 'Robert Lindquist, CA' at \$38 an hour. I started well, with the local vet soon becoming a client, and with his contacts I felt here we go, this will be my career.

But within a couple months, I received a phone call from the Crown Attorney in Kitchener, Ontario and the rest is history. This is when my career officially began, when both fun and passion re-appeared. Two years later, after basically working from our telephone equipped cars, my colleague Don Holmes and I opened our office at 44 Wellington St. in Toronto in May 1977, with a pool table in the conference room amongst pine furniture made near Owen Sound. We wanted a 'fun atmosphere.'

Three mentions before I stop for questions:

First: We call it Marketing but I must state that I enjoyed writing:

"Accounting as an Investigative Aid" 1977 to give back to our police clients, that I then developed into a two day course that we presented for several years to the Ontario Police College in Aylmer, Ontario

Fraud Auditing and Forensic Accounting

Jack Bologna, Robert Lindquist 1987, 2nd Ed 1995 by Wiley in NY

The Accounting Handbook of Fraud and Commercial Crime

Jack Bologna, Robert Lindquist, Joseph Wells 1993 by Wiley in NY

I mention Joe Wells, great memories as I was elected to the Board of Regents for the ACFE in 1992 and became Chairman for the year 1993.

Second: Until May 1978 there had been no precedent in Canada for the admissibility of accounting schedules. The case is Regina vs. Harold Scheel:

In a jury trial in November 1976, Judge Couture ruled in favor of the admissibility of accounting schedules, "having heard," as he stated, "the testimony of Mr. Lindquist." The ruling was appealed and in May 1978 the Supreme Court of Ontario, Court of Appeal set the precedent as to the admissibility of accounting schedules stating that the "learned trial judge did not err."

Third: At this time the CICA was the governing body. Given that we were not in the audit business, they allowed us to incorporate. During the process, the word 'forensic' dominated our position, given that in our view, the 'forensic' standard was greater than the audit standard. Our firm description was 'Forensic Accounting Investigations' to define our standard.

STOP here for questions

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20 Minutes Second Segment

Case Highlights: Details in lindquistforensics.com

1980's

Regina vs. Bill Player

"The true story of the rise and fall of three men-Leonard Rosenberg, William Player and Andrew Markle-who almost pulled off the greatest real estate deal in Canadian history: the \$500 million sale of 10,931 Cadillac Fairview apartments to Arab investors that created an instant profit of \$230 million...Two months after the sale, their profits were gone and their business empires...had been taken over...by the Ontario government..."

The AG hired me Described as possibly the largest such investigation in Canadian history, I was asked to consider only the more significant transactions and to take advantage of the work already completed. But the **lesson is simple**, no matter how large a case: the fraud still had to start at some time and place. This was my preference and my recommendation to the client. Let's find out, how Bill Player, a person of no known wealth, was able to buy a trust company.

Government of Trinidad vs. Minister Johnny O'Halloran, Mr. 10%

Eric Williams, head of the People's National Movement, a political party that came to power in 1956. Williams appointed this man to a series of powerful patronage positions. From his insider vantage point, Johnny O took his slice, his 10%, his skim off the top, in oil, construction and in horse racing. And almost everybody in Trinidad knew it. But nobody could do anything about it.

"In March 1981, Eric Williams died. With his son in Toronto, O'Halloran senior headed there, too. But his health was failing, and in March 1985, he died. Meanwhile, back in Trinidad, a new political party came to power in December 1986, finally toppling the People's National Movement. Suddenly there was new interest in the O'Halloran saga.

In the fall of 1988 in Port-of-Spain Trinidad, I met the Honorable Selwyn Richardson, again the Attorney General to determine if there was any merit to support the numerous allegations of bribery that had surfaced in the local press for many years. In July 1990, the AG announced to Parliament our recovery of \$7.5 million from two US companies, this was the first time a US company had been successfully sued by a foreign government.

1990's

Government of Romania vs. former President Nicolai Ceausescu

We were here to assist the new **Iliescu government** through the Minister of Justice to find the assets of Ceausescu following the summary trial and swift execution of Nicolai Ceausescu and his wife, Elena, in December 1989. The case also carried with it a civic duty to help the people begin to enjoy their newfound freedom and belief that the new government's anti-corruption mandate would make a difference in their lives. **We found \$2M in Bucharest and \$20M in Cyprus** but the Minister of Justice did not file suit in Cyprus, arguing we were too expensive.

Dormant Bank Accounts of the Victims of the Holocaust Partner in Charge MOU between World Jewish Council and the Swiss Bankers Association

Mr. Paul Volcker, Chairman of the Independent Committee of Eminent Persons issued a press release on November 19, 1996 announcing "...its Mandate and Instructions for the investigative audits of dormant accounts, financial instruments, and other assets deposited in Swiss banks by the victims of Nazi persecution". PW selected for Swiss Bank, with UBS and Credit Swiss given to AA and KPMG. Read Mandate

No docs, given 10 year limitation, Chairman offered us his conference room for couple months, focus of records was 1930's to present time that was 1996. From 775 to "54,000 accounts that were probably linked to victims of Nazi persecution." Result was a **\$1 Billion Settlement** from SBA to WJC.

World Bank Partner in Charge

It states: "World Bank President James

D. Wolfensohn acknowledged yesterday that within the past two months he has setup a special internal fraud team and hired the global accounting firm

PricewaterhouseCoopers." The Post reported on October 24, 1998 an article entitled 'World Bank Probes Pakistan Project' where it referred to PWC and its work on tracing 'Elwan's international holdings and vast financial records of the Pakistan projects.'

2000's

Petrobras Brazil

Petrobras, the national oil company of Brazil, filed a claim under its surety bond with two U.S. insurance carriers, US Fidelity and Guaranty Company and American Home Assurance Company who had provided coverage to Brazilian contractors for the construction of two naval oil rigs known as P-19 and P-31 at a coverage amount of \$110 million and \$168 million respectively. P-19 was the conversion of a platform formerly used for oil and gas exploration into a semisubmersible oil and gas production platform. P-31 was the conversion of an oil tanker into a floating production, storage, and offloading vessel. Counsel required assistance from a **forensic accountant to assess the financial condition of the contractors at the time of the underwriting; the credit evaluation process undertaken by the sureties of the contractors; the bid process;** the system's process for the purchase and payment of goods for the projects; the costing of the projects by Petrobras and a delay claim schedule of all construction activity.

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Ultimately, the US Court awarded Petrobras \$245 million in damages, about \$108 million in pre-judgment interest and attorney fees. Counsel kindly described Lindquist as the “secret weapon.”

Government of Antigua vs. former Prime Minister Lester Bird et al

In March 2004, Baldwin Spencer was elected Prime Minister of Antigua and Barbuda replacing the former Antigua Labour Party led by Lester Bird.

Simon said the recently installed Government of Prime Minister Baldwin Spencer had promised to “right the wrongs of successive Labour Party administrations.” He also noted that prior to the change of government on March 23, the country had been characterized as “being run by a government for sale.” “The appropriation of government documents under the cover of darkness just days before the general elections suggested to all of us that serious misconduct in public office must have been very extensive during the Labour Party Administration. This is true, there were only two filing Cabinets but in those we found the IHI case.

In October 1984 the Government and APUA contracted with a Japanese company “IHI” for the construction of the Crabbs desalination and Power Plant at a cost of US\$33 million. 85% of the cost or US\$ 29,750,000.00 was to be financed by IHI the Japanese company. The fraud on the government occurred in the monthly debt repayments to Bruce Rappaport, totaled some \$14.4M. Near death, he with his wife repaid \$12.5 M to the government.

Central Bank of TT vs CL Financial, a \$10 Billion Bailout and Lawrence Duprey

“...the Central Bank has retained the services of ace forensic investigator Robert Lindquist to sift through the tangled records of financially troubled insurance giant, CLICO, to determine whether it was a case of bad judgment or corporate malfeasance

From the Statement of Claim

(1) The interests of policyholders and mutual fund investors were subordinated to the interests (and demands) of others, in particular the private interests of Mr Duprey and Mr Monteil;

Bernie Madoff

Lindquist issued a “Rebuttal Expert Report” to opine on issues raised in three “Expert Reports” that essentially expressed the opinion that the defendants could not have “uncovered the Madoff Ponzi scheme because it was so sophisticated and impenetrable that even an investigation focused on fraud could not have discovered it.”

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Petitioner/First Wife and Respondent/Dead Husband

I was retained by Counsel in 2017 on behalf of, a Chapter 7 Trustee in Bankruptcy to establish a legal basis from a financial perspective to justify a search for offshore assets of the deceased bankrupt debtor. The Debtor had filed a Chapter 7 in 2013 and soon was dead. He was survived by his second wife, after his first wife had obtained a \$28 million Judgment against the Debtor in 2006. Over the five years, legal proceedings were filed in several foreign countries to trace the flow of funds moved by his Swiss bank fund manager. In 2023, a recovery of \$16.5 million was achieved.

Third Segment

Some Lessons Learned

For young professionals: Work hard because you never know who might take an interest in your career.

Forensic and investigative accountants must write a report or memo of findings with the assumption it will appear on the front page of a major newspaper. Strict adherence to and reliance upon phraseology such as 'attorney work product' or 'privileged' or 'confidential information' is insufficient.

The forensic and investigative accountant must be aware of his/her greatest enemy: personal bias. Objectivity is the key word from the start of an investigation to the last written word. Otherwise, when a report or memo is leaked into the public forum, it could at a minimum prove uncomfortable.

The forensic investigative accountant must study human conduct. In an honest environment, behavior is for the most part predictable, but in a questionable business environment that is subject of a live investigation, the forensic accountant must be most focused on the nuances of conduct, whether business or personal that is not in the normal course. Identified nuances tend to disclose subjects that must be investigated as a solid lead.

In a complex investigation that covers a large time period, the forensic accountant should focus the initial investigation on the 'before' transactions and not the 'now' transactions that are usually the largest and most complex. With this approach, the 'MO' and the intent should be easier to ascertain.

"At times, the forensic accountant does not know what he is looking for or even why, other than something that looks suspicious or out of place. So, to be overly organized when doing a fraud investigation may be a handicap. You need a lot of freedom and space to let your imagination run wild. You need to poke holes into everything including your own pet theories and biases. Do not accept anything anyone says as gospel truth. Do not assume that any document is what it purports to be. When conflicts between statements of witnesses occur, do not take sides or prejudge their veracity. Keep an open mind.

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The proof of fraud is rarely when and what you thought when you first begin the audit. Preconceptions are dangerous. They invariably lead you down the wrong path”

Final Statistic

From 1996 to 2013, 389 flights of which 179 were international.