Financial Crimes:
Defending Allegations of Fraud Schemes

Fraud scheme investigations are complicated and require significant time and effort to successfully investigate.

These investigations also require specialized knowledge in accounting. However, as a former police detective, I know from firsthand experience that many criminal investigators, though well-intentioned, are simply not adequately trained to perform comprehensive fraud scheme investigations.

Sometimes their workload precludes the necessary detailed analysis of the typical fraud investigation. In other cases, the detective is not trained to understand the full scope of the documentation required and how to properly analyze that data. In the justice system, these failings can be critical to the case presented by the prosecutor who has relied on the investigating officer.

Case Study: Criminal Fraud Schemes

We were asked by counsel to review the conclusions presented by a detective in a pending criminal fraud schemes case. As background, a company's internal accountant was accused of embezzling cash from the business through manipulation of the internal accounting records in an effort to conceal the alleged theft. The detective was very confident in setting forth the charges and his conclusions. Those conclusions formed the basis for the criminal charges against the defendant.

Step 1
Identifying the Issue to be Investigated

The first step in evaluating the case presented by the prosecutor was to understand the issue or question which must be investigated. For the detective, the question was (or should have been) whether there was sufficient evidence to prove that the defendant had committed fraud schemes. The question asked by the criminal defense attorney was whether the detective had properly developed supporting evidence for his conclusion that the defendant may be guilty. Answering this question goes to whether or not the investigator had established a proper foundation for his conclusion.

Step 2
'Scoping': Assess Detective's Conclusion

The next step was to review the documentation available to the detective and to assess the facts, assumptions, and methodology used in arriving at his conclusion. This step, called 'Scoping', is the process of determining what individuals, documents, and information may be relevant to answering the question.

Step 3
'Full and False Inclusion' Testing

This refers to the process of verifying that everything which should be considered, was included in the analysis, and that nothing that should not be considered was excluded. This is critical, since exclusion of material or exculpatory evidence can fatally flaw the entire conclusion. At the same time, inclusion of evidence which is not consistent with the case being brought forth can taint that conclusion.

Case Resolution

In this case it was determined that the detective relied on incomplete information (i.e., there was a lack of full inclusion). The detective had obtained some of the business accounting records and bank statements, but not all of the relevant documentation. The detective's analysis also contained errors, and failed to consider other potentially relevant documentation, such as computer system access logs, copies of all the business's bank and credit card account statements, detailed payroll records, approved vendor lists, vendor purchase invoices, receipts, etc. Furthermore, tests revealed the detective falsely included bank records on which other parties were also signatories, without ruling out the potential for the other parties to have made the bank transactions in question. This was evidence of false inclusion.

Ultimately, our opinion was that the conclusions of the detective were fatally flawed and that the evidence did not support his conclusions.

Lesson to be Learned by Criminal Defense Attorneys and Prosecutors

Conclusions or opinions are only as good as the foundation upon which they are built. When it comes to allegations of financial crimes, the best strategy is to retain a qualified and experienced forensic accountant.

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