



Forensic Accounting: Where Hindsight is Often 20/20

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CHATHAM HOUSE RULES



This presentation is being held under the
Chatham House Rule

- Participants are free to use the information received, but neither the identity nor the affiliation of the speaker or participants may be revealed
- For those unfamiliar with Chatham House Rules in simple terms it is the same as
 - “What happens in Vegas stays in Vegas” or
 - “What goes on tour stays on tour”

OUTLINE



- What is Forensic Accounting?
- Lessons Learned Case Studies
 - Employee Fraud
 - Commercial Disputes

FORENSIC ACCOUNTING DEFINED



Forensic Accounting:

- Specialist area of accounting practice that combines various skills including financial reporting, data analytics, auditing, evidence gathering and investigative skills
- Forensic means suitable for use in a court of law
- Broadly describes engagements that result from actual or anticipated disputes or litigation

FORENSIC ACCOUNTING DEFINED



Forensic Accounting:

- Forensic Accountants don't normally form opinions, rather they analyse information and present the facts and provide answers to the how, where, why, what and who questions
- Ultimately, it is the court's role to form an opinion
- In simple terms, Forensic Accountants find the truth behind the numbers and communicate that truth in a clear and concise manner

TYPES OF ENGAGEMENTS



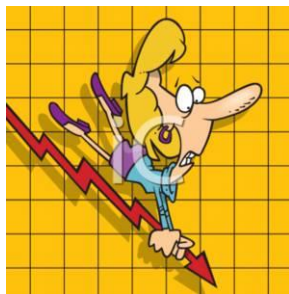
- Business Valuations
- Business Disputes (Directors, Partners, Trustees)
- Family Law
- Fraud Investigations
- Post Acquisition Disputes
- Quantification of Economic Damages
- Investigative Accountants Reports

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CASE STUDY



Employee Fraud



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FACTS OF THE CASE



- Company domiciled in Australia (five subsidiaries)
- Foreign shareholders
- Contracted CFO appointed as Australian Director
- Serious cash flow issues, considerable intercompany loans and shareholder loans
- Very limited information provided to foreign investors

FACTS OF THE CASE



- CFO lent the company money via a personal company and an SMSF
- Secured the loans with a fixed and floating charge
- As the cash flow dried up, shareholders were concerned about further requests for funding
- CFO issued a demand for payment of outstanding loans
- When the demand was not paid, the CFO appointed an administrator to the company

FACTS OF THE CASE



- The shareholders wanted a forensic accounting investigation conducted to determine where all the money had gone
- With administrators in place, this was particularly challenging
- During the course of the investigation, the company was placed into liquidation
- Had to work with the liquidators to access records
- Software in place was not standard

FACTS OF THE CASE



- The monies claimed to be owed were unfounded
- Whilst the CFO had lent the money, it had been repaid several times over
- The appointment of the administrator was called into question, however, with the company in liquidation there were limited options
- The CFO was a qualified accountant and registered liquidator, and therefore knew how to manipulate the system

LESSONS LEARNED



- Trust is not an internal control
- Appointing a qualified person into a role such as CFO and Director does not discharge other directors responsibilities
- Do not ignore a Statutory Demand under any circumstances
- Sound internal controls and oversight are essential in all businesses

CASE STUDY



Director Dispute



FACTS OF THE CASE



- 1 director company established business looking for investors
- Found 2 investors and formed a 3 director new entity
- New directors invested \$3 million each for 50% stake, suggesting the business was worth \$12 million
- Two components dental practice plus new dental technology

FACTS OF THE CASE



- New investors began to get concerned when business was not performing and was suffering from cash flow shortages
- They sought legal advice and found they in fact did not have 50% share, only 30%
- Commenced legal proceedings:
 - Misrepresentations
 - Possible fraud
- None of the money they invested went to the new company

LESSONS LEARNED



- Document! Document! Document! Ensure all critical agreements are in writing
- Business relationships are similar to marriage. We all know what the divorce rate is like and written business agreements are almost like a pre-nuptial
- Better to sort that out whilst we are still in love
- Sorting out later can be very costly
- Pay for a thorough due diligence

CASE STUDY



Whistle Blower: Possible Fraud



FACTS OF THE CASE



- 2 director company, small successful business for 20 years
- Experiencing increasing issues with decreasing cash flow
- Anonymous letter received, hand written claiming the company bookkeeper in cahoots with the head salesman has been robbing the company blind for years
- Shocked and somewhat dismissive initially

FACTS OF THE CASE



- Decided to do a little detective work at the encouragement of their respective wives
- Began uncovering anomalies and discrepancies in invoices and payments
- Sought legal advice and were referred on to us
- Preliminary investigations identified considerable sums of money missing, in excess of \$1,000,000
- HR issues, can you sack someone based suspected fraud?

FACTS OF THE CASE



- Some clients provided statements about being offered discounts for cash or to avoid getting in trouble for such a hefty discount, make the cheque payable to the individual
- Company in financial difficulty
- Insurance policy in place for employee theft and fraud up to \$500,000

LESSONS LEARNED



- Trust is not an internal control
- Do not let anyone use your banking login
- Pay attention to changes in profitability and cash flow. Need to ask why?
- Don't dismiss anonymous tips
- Get advice
- Have insurance
- Have the perpetrator(s) charged



CASE STUDY



Post Acquisition Dispute



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FACTS OF THE CASE



- Client purchased a cleaning business and after 12 months of trading and significant improvements they were not able to make the profits that had been claimed by the previous owners
- Suspected the vendors figures were incorrect
- Had requested an accountant to look over the figures prior to purchase but had not actively participated in the due diligence
- Sought legal advice

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FACTS OF THE CASE



- Having put together a prima facie case of deception, we were engaged to establish the accuracy of the figures provided and to quantify the damages suffered by the purchaser
- Prior to selling, the vendors operated the cleaning business under three trading names, all offering different cleaning services
- They then split the business into three components and sold them separately

FACTS OF THE CASE



- However, in this case, they managed to remove all of the unrelated expenses of the business but left a significant amount of the revenue in the financials
- The other thing they left at the premises was the daily work book which recorded all of the cleaning jobs by hand
- Analysis of the books, records and tax returns confirmed the information contained on the Form 2 and verified by an accountant was incorrect

FACTS OF THE CASE



- In order to quantify the losses, it was first necessary to value the business based on the true financial statements and then compare that to how much the purchasers paid for the business
- During the evidence gathering stages, it became apparent that the accounting firm who conducted the due diligence was the same firm who signed the Form 2 on behalf of the vendor

FACTS OF THE CASE



- Prior to mediation, both sides exchanged expert witness reports
- The solicitor sent me a copy asking for my comment
- To my surprise, the expert witness report was prepared by the vendors local accountants and comprised 9 pages in total, of which 6 were QuickBooks reports? Apparently the mediator had a field day with that!

LESSONS LEARNED



- Ensure your clients have a quality due diligence conducted prior to making a significant purchase
- Use appropriately qualified people
- If you are going to actively deceive someone for financial gain, don't leave the evidence behind for them to connect the dots

LESSONS LEARNED



- Lessons for accountants. Be cautious signing verification statements for sale or bank purposes as you may find yourself on the wrong end of a professional indemnity claim
- If you have a conflict and decide to proceed with the engagement, be sure you disclose the conflict and have the clients sign off on it
- Don't agree to perform engagements that you are suitably qualified to conduct

CASE STUDY: 2007-2011



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FACTS OF THE CASE



- Time off every morning to attend to royal correspondence
- Annual leave to attend Kate and Wills wedding
- Often signing HRH on government correspondence
- Yet, nobody seriously questioned why a Tahitian Prince was working at Queensland Health?
- This case does not just raise red flags, HRH Joel, was a walking talking larger than life RED FLAG

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FACTS OF THE CASE



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FACTS OF THE CASE



- Work performance was of a poor quality
- Complaints of bullying co-workers
- Regular absences from work
- Inability to meet deadlines
- All accepted because he was a prince and a generous one at that. Many Queensland Health staffers received expensive champagne, airfares and other assorted gifts during the prince's 4 year reign

FACTS OF THE CASE



How he did it:

- Set up a fake health service provider company of which he was a director
- Began submitting invoices for services and then processing the invoices for payment
- Because the payments were coming from a grant fund, it is suggested that less scrutiny was applied to the disbursement of that money

FACTS OF THE CASE



How he did it:

- Barlow claims he did not keep track of how much money he took, he simply raised an invoice when funds got low and he needed more money
- During the 4 year period, he took an estimated \$16.9 million
- Some claim he forged documents, Barlow claims many were genuinely signed/approved

CRIMINAL MASTERMIND?



As stated in his confession to investigating officers...



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CRIMINAL MASTERMIND?



Or a google search....for Tahitian Royalty finds:

- Ari'i aue Pōmare V Last King of Tahiti died in 1891
- France annexed Tahiti and its dependencies on 29 June 1880
- So no royal family since 1880?
- Definitely not a criminal mastermind, just a brazen fraudster who took a chance and had a wild ride while it lasted

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FACTS OF THE CASE



- Anonymous tip sent to the CMC in August 2010 was eventually passed to Queensland Health and when the ethics standards department contacted Barlow's manager, he advised there were no concerns about Barlow and that he did not have any opportunity to commit fraud
- The tip was also downplayed as it did not specify an amount and the claim that he was leaving for Paris was incorrect

FACTS OF THE CASE



- Where were the auditors?
- Queensland Auditor General wrote a scathing report to the Labour Government prior to the case coming to light detailing the vulnerability of the department to fraud due to inadequate internal controls
- During one annual audit, 24 transactions were identified as having insufficient documentation and it was suggested they be investigated fully

FACTS OF THE CASE



- Where were the auditors?
- Amongst those transactions was an invoice for \$240,000 from HRH, Joel's company and subsequent payment
- This transaction was not investigated due to the small amount of money involved

FACTS OF THE CASE



- In late 2011, HRH decided to process an invoice for the amount of \$11 million and this invoice would be the beginning of the end for the wannabe prince
- A diligent finance officer was struggling trying to balance the community service purchasing budget and was having no joy
- He uncovered an \$11 million payment to Healthy Initiatives and Choices made from the Minister's Grants in Aid program

FACTS OF THE CASE



- The officer not only queried the payment with a superior, he also ran a company search on HIC and found the company registered to Barlow
- Having been alerted to the problem, Queensland Health went into a scramble, meetings and discussions and of course a quick flick of the switch to cut his access to the computer system

FACTS OF THE CASE



- When Barlow wandered into work that day around lunch time he quickly observed his supervisor was notably missing and that his computer access had been cut and his work phone wiped
- He casually told his assistant he was popping out for a bite to eat and never returned

FACTS OF THE CASE



- He was arrested 4 days later



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FACTS OF THE CASE



- The booty recovered was extensive, and included a river front apartment at New Farm and a collection of extravagant and bizarre items that saw Queenslanders flocking to the auctions house to find a bargain

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FACTS OF THE CASE

- In March 2013 he was sentenced to 14 years in jail and will be eligible for parole in December 2016



LESSONS LEARNED



- Internal controls are essential to be in place and also followed
- Policies and procedures are no good if they are not followed and non-compliance is not dealt with
- Follow up on reports of misconduct, no matter how outrageous they may seem
- Listen to the auditors
- Train staff in fraud awareness - what to look for and why

LESSONS LEARNED



- Other employees inadvertently assisted in the ongoing fraud
- Some have been stood down, transferred, left employment and two are still on full pay awaiting a decision
- The government says it cant happen again! Brave statement indeed

LESSONS LEARNED



- Transactions over \$100,000 now require 3 signatures
- Police background checks now include New Zealand
- But will this change the culture at Queensland Health?

??QUESTIONS??

