

3:30 – 4:30 p.m.

Ethical Implications of Forensic Investigations

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**Discussion
Question?**

You receive a call Tuesday afternoon from a potential client who received an anonymous tip that an employee is embezzling cash and inventory. She wants you to document the misdeeds it so they can fire the person by Friday ...

If there are, what are the ethical implications?

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Wisconsin Institute of CPA's Business and Industry Conference

Ethical Implications of Forensic Investigations

PERSPECTIVE

CHANGES EVERYTHING.

WIPFLI

Agenda

Ethical implications in forensic investigations

Professional Standards

Resources

Ask Questions



Ethical implications for forensic accountants

**Discussion
Question**

- In-house legal counsel for your firm's client (publicly held, experiencing financial issues) has requested that you complete a forensic investigation to document a \$750,000 inventory theft (precious metals).
- Internal Audit has already reported to the Board that a \$750,000 insurance recovery is expected.
- Ethical implications?

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**Discussion
Question**

- During the course of your investigation to quantify the theft, inventory and manufacturing staff cooperate fully. Your analysis of the inventory records, security, and interviews of all staff with access to the gold/silver, leave you unable to identify any indications of missing inventory.
- You are stone-walled when working with internal audit and accounting to understand the analysis that led them to conclude there was a theft. Eventually a staff person reports the department was directed to not cooperate with your investigation.
- Ethical implications?

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Discussion Question

- Your analysis of some of the information IA used to identify and quantify the theft – product bills of materials, job costing, etc. – identifies an apparent error understating the quantity of materials used to produce each part.
- Your client tells you that doesn't matter and you just need to write a report using IA's conclusions.
- Ethical implications?

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Ethical implications in forensic investigations

- What is the source of ethics for forensic accountants?
 - ▶ What is ethical?
 - ▶ What is legal?
 - ▶ What is moral?
 - ▶ Professional ethics
 - ▶ Personal Ethics
- Are (how are) ethical obligations separate/distinct from the quality of the service?

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**Ethical
implications in
forensic
investigations**

- What are the implications of ethical decisions by/for forensic accountants?
 - ▶ Target?
 - ▶ Client?
 - ▶ Forensic accountant?
 - ▶ Employer?
 - ▶ Profession?
 - ▶ ???

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**Ethical
implications in
forensic
investigations**

- Outcome based implications for the target(s)
 - ▶ Career
 - ▶ Personal relationships
 - ▶ Financial implications
 - ▶ Criminal prosecution
 - ▶ Suicide
 - ▶ Workplace violence

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**Ethical
implications in
forensic
investigations**

- Outcome based implications for the client
 - ▶ Reputation
 - ▶ Staff
 - ▶ Legal liability

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**Ethical
implications in
forensic
investigations**

- Outcome based implications for the forensic accountant
 - ▶ Reputation/Career
 - ▶ Legal liability to client
 - ▶ Legal liability to subject
 - ▶ Criminal prosecution

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Discussion Questions

- Can you separate poor/no ethics from poor/no diligence?
- What if you encounter contraband?
- What if you don't review evidence?
- What if you encounter –
 - ▶ A threat to physically harm someone?
 - ▶ A threat to kill someone?
 - ▶ A death threat to a member of your team?

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**Professional
Standards**

- **AICPA SSFS No. 1**
 - ▶ Effective for litigation and investigation engagements 1/1/2020.
 - Excludes attest or tax engagements.
 - Excludes internal engagements (non-public practice).
 - ▶ Principles based
 - Professional competence.
 - Professional care.
 - Planning & supervision.
 - Sufficient relevant data.
 - Integrity & objectivity.
 - Serve the client interest.
 - Understanding and communication with client.

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**Professional
Standards**

- **AICPA SSFS No. 1**
 - No testimony in contingent fee arrangement.
 - The ultimate decision regarding the occurrence of fraud is determined by a trier of fact; therefore, a member performing forensic services is prohibited from opining regarding the ultimate conclusion of fraud. This does not apply when the member is the trier of fact. A member may provide expert opinions relating to whether evidence is consistent with certain elements of fraud or other laws based on objective evaluation. (¶10)

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**Professional
Standards**

- **ACFE Code of Professional Ethics**
 - Professionalism & diligence.
 - No illegal or unethical conduct or undisclosed conflict of interest.
 - Highest level of integrity & reasonable expectation of completing with professional competence.
 - Comply with lawful court orders, testify truthfully without bias/prejudice.
 - Obtain evidence to establish a reasonable basis for opinion. **“No opinion shall be expressed regarding the guilt or innocence of person/party.”**

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**Professional
Standards**

- **ACFE Code of Professional Ethics**
 - No revealing confidential information without authorization.
 - No errors of omission.
 - Strive to improve competence & effectiveness.

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Ethical Foundations

- You're investigating an employee's actions at your client (the employer). Can you follow and surveil them at home, or on vacation, to find evidence of wrongdoing?
 - ▶ In some jurisdictions you may need a private detective/investigator license to perform this, or similar activities as part of your investigation.

WI Statute § 440.26 Private detectives, investigators and security personnel; licenses and permits

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Professional Standards

SPS 30.02 Private Detective and Agency ... Definitions

30.02(12)(a)2 "Private Detective"

2. A person engaged for compensation or other consideration on behalf of another, in investigating or otherwise obtaining or furnishing information relating to any of the following:

- b. The identity, conduct, business, honesty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person, if such information is obtained in secret, without the knowledge of the person being observed.
- c. The location, disposition or recovery of lost or stolen property.
- d. The cause or responsibility for fires, libels, losses, accidents, damage, injury or death.
- e. Securing evidence to be used before any court, public board, officer, or investigating committee.

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**Real Life
Example**

- After an investigation, a clerk earning \$400 per check at a grocery store is fired and a police report is made regarding her theft of cash/gift cards.
- Criminal charges are filed, and she is prosecuted.
- At trial, the investigation is shot down in flames, not only is she acquitted, but she sues employer for “botched” investigation and awarded >\$400,000 in damages.

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**Ethical
implications in
forensic
investigations**

- How many of you have had a request to perform a fraud audit for a client?
- How many of you have performed a fraud audit?
- What is a fraud audit?
- Is there such a thing as a “fraud audit?”

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Real Life Example

- When attempting to withdraw funds from his bank account, the owner is informed there are insufficient funds due to a recent withdrawal at another branch.
- You are engaged, promptly investigate, and you prepare a written report concluding that the earlier withdrawal was fraudulent.
- Based on your report, law enforcement locates and arrests the individual who earlier withdrew the funds.
- After being jailed for seven days, law enforcement concludes the individual jailed is the rightful owner of the account.
- Had you simply looked at the surveillance video you would have discovered that the reported owner wasn't the same race as the owner of the account.

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Questions & Answers



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Resources

Organization	Websites
Association of Certified Fraud Examiners	www.acfe.com
American Institute of Certified Public Accountants – Forensic and Valuation Services	www.fvs.aicpa.org
The Institute of Internal Auditors	www.theiia.org
Open Compliance and Ethics Group	www.oceg.org
International Association of Financial Crimes Investigators	www.iafci.org
Society of Corporate Compliance and Ethics	www.corporatecompliance.org
Transparency International (Corruption Perception Index)	www.transparency.org

Resources

Organization	Websites
The Committee of Sponsoring Organizations of the Treadway Commission (COSO)	www.coso.org
Chartered Institute of Management Accountants	www.cimaglobal.com
ASIS International	www.asisonline.org
The Serious Fraud Office (UK)	www.sfo.gov.uk
Information Systems Audit and Control Association	www.isaca.org
U. S. Department of Justice	www.usdoj.gov
U.S. Securities and Exchange Commission	www.sec.gov

Contact information

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