Follow the Money: Using Forensic Accounting to Solve Financial Crimes

Tuesday, April 4 | 3:05 PM

Moderator:
Peter D. Wild, FCA., CAMS-Audit, AML Consulting, Audit & Training,
Wild AML Solutions LLC

Speakers:
Bassem Banafa, CAMS, CPA, Financial Forensics Consultant, Bassemanaba.com
Jason Chorlins, CPA, CFE, CAMS, Principal | Risk Advisory Services, Kaufman Rossin
Anthony Dominicis , Assistant Special Agent in Charge (ASAC), Internal Revenue Service (IRS) – Criminal Investigation (CI)
Session Speakers & Their Topics

1. Jason Chorlins: Follow The Money
2. Bassem Banafa: Forensic Accountants vs AML Investigators
3. Anthony Dominicis: A Law Enforcement Perspective
Introduction to Today’s Session

1. We will review case studies to illustrate the application of forensic accounting to complex AML matters

2. Knowing when and how to partner with forensic accountants to resolve financial or fraud-related crimes

3. How to analyze an entities’ financial information to strengthen your AML Compliance Program
Jason Chorlins, CPA, CFE, CAMS
Principal, Kaufman Rossin
Why Utilize Forensic Accountants?

• Increasing complexity in money laundering schemes

• Increased emphasis on utilizing financial information (i.e., tax returns and financial statements) as part of the CDD/EDD process

• The many faces of fraud
Case Study

The Rothstein Ponzi Scheme

2006 - 2009
The Scheme

- Prominent law firm in South Miami
- Attorney was one of the Bank’s largest clients at the branch
- Attorney sold fake structured settlements to investors
- $1.2 billion Ponzi scheme
What was missed?

One Financial Institution:

• 45 AML alerts encompassing $552 million in total activity

• 21 fraud alerts

• 50 overdraft items totaling $13.6 million

• Enhanced due diligence was performed on the law firm
Connecting the dots

• Review of all transaction activity for 16 accounts and tracing of funds to/from the accounts
•Reviewed daily balance and overdraft reports
•Reviewed due diligence and financial records available to the Bank
What did forensic accountants do?

• Able to put the puzzle together by tracing funds from multiple accounts and financial institutions
• Identified the key players and victims
• Able to document and understand the scheme
• Allowed investors to be made whole on their investments
The Outcome

- $1.2 billion in investor losses
- 50-year prison sentence
- 30 individuals have been arrested or convicted
- Defunct law firm with 70 lawyers and 150 employees
- Reputational damage to the banks involved
Final Takeaways

• Obtain financial information (i.e., financial statements or tax returns) to corroborate transaction activity when warranted or on a risk-based approach

• Know the risks and red flags specific to your customers (i.e., internal transfers between Interest on Trust Accounts (IOTA) is a no-no for attorneys)

• Break down the silos in your Bank

• Know when you’ve gone far enough!
Bassem Banafa, CPA, CFE, ABV, CGMA, CFCS, CFF, EnCE
Consultant
A Criminal Enterprise

AML Team
Criminals
AML Investigation

Bank 1
Bank 2
Bank 3
A Criminal Enterprise

- Criminals
- AML Investigation
- Email
- Phone Numbers
- Transactions
- Teller Contacts
- Address
A Criminal Enterprise

- Forensic Accounting
- Criminals
- AML Investigation

Phone Number

Police Report

Email Address

Beneficiary
“Follow the Money”

• It sounds like Forensic Accountants and Financial Crime Investigators are exactly the same...
Financial Crime Investigators

1. Review financial and non-financial information for suspicious activity.

2. Typically they are confined to the information within their financial institution.


4. Subject to scrutiny by regulators.
Forensic Accountants

• Review financial and non-financial information in response to a “bad act” that is known or suspected.
• Report the story of the “bad act.”
• Subject to scrutiny by everyone.
  • Prosecutors/Regulators.
  • Defense Attorneys/Plaintiffs Attorneys.
  • Judges, Juries, the Public.
  • Other Forensic Accountants.
  • Investigators and analysts that think they’re forensic accountants.
Case Study
Marijuana Delivery Service

• Defendant ran a medical marijuana delivery service from home.
  • Bad Act #1: Made employees sign vendor receipts indicating they sold marijuana to the company in order to receive pay.
    • He also ate their brown bag lunches while they were delivering marijuana.
  • Bad Act #2: Sold marijuana to non-members.
    • In California, medical marijuana users need to be members of a “collective” in order to exchange money for marijuana.
Q. So, Mr. Banafa, as part of the education, training and experience that you have to qualify you as an expert forensic accountant, are you a certified public accountant?
A. Yes.
Q. Are you a certified fraud examiner?
A. Yes.
Q. Are you accredited in business evaluation?
A. Yes.
Q. Are you charted as a global management accountant?
A. Yes.
Q. Are you a certified anti-money laundering specialist?
A. Yes.
Q. Are you a certified financial crime specialist?
A. Yes.
Q. Are you certified in financial forensics?
A. Yes.
Q. And are you an EnCase certified examiner?
A. Yes.
Q. Based on your education, training and experience as a forensic accountant, is there a significance in allocating expenses as wages versus inventory?

A. Yes.

Q. What is that significance?

A. There are a number of additional costs associated with having employees and paying wages that would not be associated with merely purchasing product to sell.

Q. Please explain.

A. Employees are subject to payroll tax withholdings workers' compensation insurance --
A. When fraud is identified in a document or a series of documents generated by a company, you can't simply -- or a forensic accountant would not simply deduct the fraudulent transactions. The fraud can be indicative of a systemic problem at the company.

In the case of [redacted], I became concerned that more of these vendor receipts may have had issues, and without further procedures and further investigations, I would not be able to rely on the entire body of vendor receipts.
(1) did not operate as a closed circuit thus allowing sales to non-members -

a. Defendant [redacted] made a total of 586 deliveries of marijuana during the period of June through December 2014 of which 376 (64%) were to non-members. Total sales equaled $49,977.50 of which $32,314.50 were sales to non-members;

b. Defendant [redacted] made a total of 568 deliveries of marijuana during the period of June through December 2014 of which 301 (52%) were to non-members. Total sales equaled $48,926.00 of which $34,057.00 were sales to non-members;

c. Defendant [redacted] made a total of 473 deliveries of marijuana during the period of June through December 2014 of which 301 (63%) were to non-members. Total sales equaled $40,249.00 of which $25,495.00 were sales to non-members; and

D. Defendant [redacted] made a total of 119 deliveries of marijuana during the period of June through December 2014 of which 62 (52%) were to non-members. Total sales equaled $11,358.75 of which $6,560.75 were sales to non-members. 3

3 Testimony establishing these calculations was provided by witness Banafa who was qualified as an expert forensic accountant.
In accordance with the Guidelines, considerable weight, as required by case law, the court finds that [redacted] was operating illegally. Specifically, the court notes a number of facts supporting this conclusion, the most significant of which is the extremely high percentage and dollar value of marijuana deliveries made to non-members of [redacted] by defendants [redacted] and [redacted]. The basis for this conclusion is the uncontravened testimony of witness Banafa. The court observed Mr. Banafa as he testified, considered the substance of his testimony, and finds him extremely credible. The court believes that primarily on this basis, a holding order should properly issue. There
Feedback from Prosecutors

his ability to simplify this information and share it with the team in easily understandable terms. This has been a tremendous help defense experts and thus the defense. With his guidance, I literally got issue for the marijuana defense ... That these guys were a "for profit" enterprise. And that concession carried much weight

most important was the ability to analyze the evidence and apply it meaningfully to the prosecution in this case. No single prosecutor or agency's detective has that capacity or time. Having more forensic analyst positions in this office
Feedback from Prosecutors

• “...his ability to simplify this information and share it with the team in easily understandable terms. This has been a tremendous help...”

• “With his guidance, I literally got the defense accountant to concede the most critical issue for the marijuana defense...That these guys were a “for profit” enterprise. And that concession carries much weight...”

• “...most important was the ability to analyze the evidence and apply it meaningfully to the prosecution in this case. No single prosecutor or agency’s detective has that capacity or time...”
Anthony Dominicis
Assistant Special Agent in Charge
IRS Criminal Investigation
Useful Information

• Terrorist Financing
• Interbank Funds Tracing
• Beneficial Ownership
• Narrate Conversation
• CTR Brochure
• Due Diligence - Sources of Information
• Dates/Times/Locations of Transactions
Useful Information

- Deposits/Withdrawals Separately
- Cell Phone Number
- Email Address
- Surveillance Tape
- Associated SARs
- Tax ID number
- Panama Papers
Red Flags

- No Product Turnover
- Lack of Product Licenses
- MSB Service with No Withdrawals
- Tax Returns Inconsistent with Cash Flows
Final Thought

Direct Relationship with Local IRS-CI Field Office
Anthony Dominicis
Assistant Special Agent in Charge
IRS Criminal Investigation

Miami Field Office
Anthony.Dominicis@ci.irs.gov
(954) 991-4125
Questions ????
Takeaways

1. Break down the silos in your Bank
2. Maintain a relationship with Law Enforcement and Prosecutors
3. Know when to escalate a case for research beyond “your” financial institution
4. Ensure the provenance of the evidence
FORENSICS

Your Speakers:

Peter D. Wild FCA, CAMS Audit
Wild AML Solutions LLC
peter@wildamlsolutions.com

Jason Chorlins, CPA, CFE, CAMS
Principal, Kaufman Rossin
jchorlins@KAUFMANROSSIN.COM

Bassem Banafa, CPA, CFE, ABV, CGMA, CFCS, CFF, EnCE
Consultant
bassem@bassembanafa.com

Anthony Dominicis
Anthony.Dominicis@ci.irs.gov
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