



FRAUD in a University Culture

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Acknowledgements

- *2008 ACFE Report to the Nation on Occupational Fraud & Abuse*
- *2008 Fraud Examiners Manual, Association of Certified Fraud Examiners*
- *American Institute of Certified Public Accountants*

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Acknowledgements

- **AICPA Webcast: Financial Fraud from the Fraudster's Perspective . . . *How Good People Go Bad***
- **Michael Josephson Institute**
- **On Being a Scientist: Responsible Conduct In Research – National Academy Press**
- ***Chronicle of Higher Education***
- ***ACFE Anti-Fraud Resource Guide-4th Quarter 2008***

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Acknowledgements

- ***Conducting Internal Investigations, Association of Certified Fraud Examiners***
- ***Investigations in the Workplace, Eugene F. Ferraro, Norman M. Spain***
- ***Practical Aspects of Interview and Interrogation, David E. Zulawski, Douglas E. Wicklander***

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Course Objectives

- Discussion of ACFE's *2008 Report to the Nation on Occupational Fraud*
- Evaluate how to detect fraud in an institutional environment
- Evaluate fraud "hot spots"
- Discuss how to be pro-active to fraud issues

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The Questions

- How is it that when it sounds too good to be true, so many people, even respected leaders in various higher educational leadership positions and respected corporations, buy into schemes which are fraudulent in nature?



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Definition of Fraud

- Put more succinctly, fraud includes any intentioned or deliberate act to deprive another of property or money by guile, deception or other unfair means.



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The Fraudster

How and what does a person feel when they are required to pay the penalty for their fraud?

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What Elements are Necessary for a Person to Commit Fraud?

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**PERCEIVED
OPPORTUNITY**

**Fraud
Triangle**

PRESSURE

RATIONALIZATION

**BY DEFINITION, FRAUD IS
UNETHICAL—HOW DO
YOU IDENTIFY A
FRAUDSTER?**



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A large black rectangular area, likely a placeholder for a video or image, set against a blue background with a subtle wave pattern.

AICPA Webcast: Financial Fraud from the Fraudster's Perspective . . . *How Good People Go Bad*

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While it may be hard to recognize a fraudster, there are characteristics to look for.



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Fraud is a Man's World

- **Males are more likely to commit fraud as their female counterparts.**
- **Median loss of fraud by men is more than twice that of women.**
- **Why?**





Fraud by Age

- The higher percentage of fraudsters are between the ages of 41-50.
- The median loss from fraud rises as the age of the fraudster increases.
- Why?



Alone or Collusion



- Nearly 2/3 of the fraud schemes studied in the ACFE 2008 Report to the Nation on Occupational Fraud & Abuse indicated the fraudster acted alone.
- When two or more fraudsters were involved, the medial loss was more than four times higher than when a fraudster acted alone.



Education and Position

- Most fraudsters have attended or graduated from college.
- 11% have obtained a post-graduate degree.
- The higher the degree, the more costly the fraud.



Red Flags

- Tendency to live beyond one's means
- Struggling with personal financial issues
- Wheeler-dealer attitude
- Irritability, defensiveness, addiction problems, legal problems, refusal to take vacation and complaining about inadequate pay





Fraud by Department

Department	# of Cases	Pct. Of Cases	Median Loss
Accounting	231	28.9%	\$ 200,000
Executive/Upper Management	142	17.8%	\$ 853,000
Operations	129	16.1%	\$ 80,000
Sales	93	11.6%	\$ 106,000
Customer Service	49	6.1%	\$ 45,000
Finance	31	3.9%	\$ 252,000
Warehousing/Inventory	24	3.0%	\$ 100,000
Purchasing	22	2.8%	\$ 600,000
Manufacturing and Production	19	2.4%	\$ 100,000
Information Technology	16	2.0%	\$ 93,000
Marketing/Public Relations	8	1.0%	\$ 80,000
Legal	8	1.0%	\$ 1,100,000
Board of Directors	8	1.0%	\$ 93,000
Human Resources	7	0.9%	\$ 325,000
Research and Development	7	0.9%	\$ 562,000
Internal Audit	6	0.8%	\$ 93,000

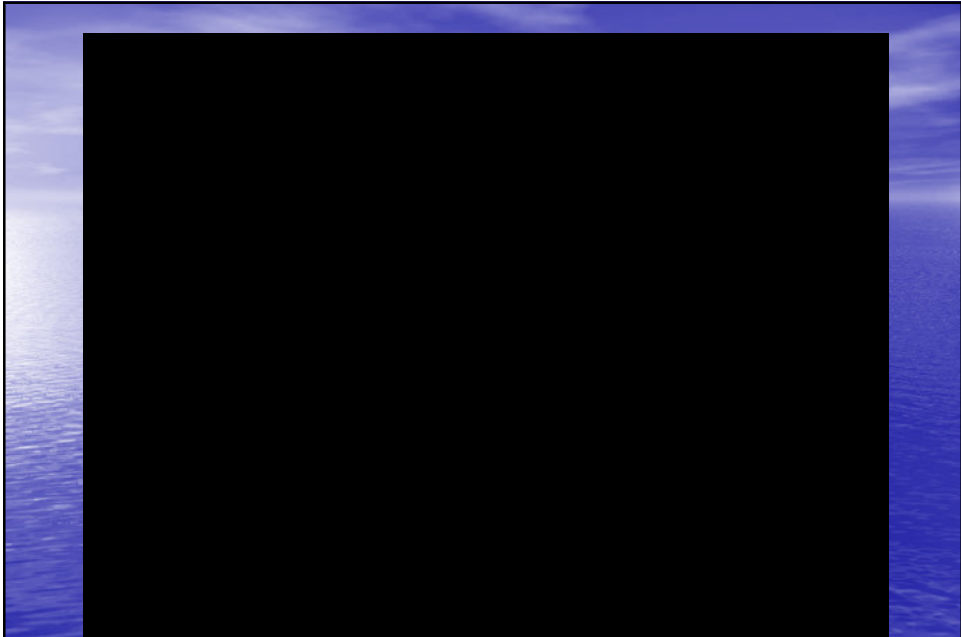
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**The People Who Can Hurt
You the Most are the
People You Trust the Most!**

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Principal Categories of Fraud

- Misrepresentation of material facts
- Concealment of material facts
- Bribery
- Conflicts of interest
- Theft of money or property
- Theft of trade secrets or intellectual property
- Breach of fiduciary duty
- Statutory offenses



Principal Categories of Fraud

- Misrepresentation of material facts
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Misrepresentation of Material Facts

- **Misrepresentation of material facts is most often thought of when the term fraud is used.**
- **Misrepresentation cases can be prosecuted criminally or civilly under a variety of statutes, such as false statements, false claims, mail and wire fraud, or they might be the basis for common law claims.**



Misrepresentation of Material Facts

- **The gist of the offense is the deliberate making of false statements to induce the intended victim to part with money or property.**
- **The elements normally include:**
 - material false statement
 - knowledge of its falsity
 - reliance on the false statement by the victim
 - damages suffered.

Concealment of Material Facts

- **An action for fraud may be based on the concealment of material facts, but only if the defendant had a duty in the circumstances to disclose.**
- **The essential elements of fraud based on failure to disclose material facts are:**
 - **the defendant had knowledge of a material fact;**
 - **the defendant had a duty to disclose and failed to do so with the intent to mislead or deceive the other party.**

Conflict of Interest

- **Statutes in every state and the federal system (as well as common law decisions in all jurisdictions) prohibit people from engaging in conduct which involves a conflict of interest.**

Conflict of Interest

- A typical civil claim for conflict of interest includes:
 - an agent taking an interest in a transaction that is actually or potentially adverse to the principal without full and timely disclosure to and approval by the principal.

Theft of Money or Property

- Theft is a term often used to describe a wide variety of fraudulent conduct. Many state statutes describe misrepresentation fraud as *theft by deception or larceny by trick*. As used here, the term theft is limited to embezzlement, larceny, and misappropriation of trade secrets and proprietary information.

Embezzlement

- ***Embezzlement*** is the fraudulent appropriation of money or property by a person to whom it has been lawfully entrusted (or to whom lawful possession was given).
- Embezzlement involves a breach of trust, although it is not necessary to show a fiduciary relationship between the parties.

Embezzlement

- The element of embezzlement is generally:
 - the defendant took or converted, without the knowledge or consent of the owner, money or property of another that was entrusted to the defendant (defendant had lawful possession of the property).

Larceny

- ***Larceny* is defined as the unlawful taking of money or property of another with the intent to convert or to deprive the owner.**
- **In larceny, unlike embezzlement, the defendant never has lawful possession of the property, but may have mere custody of it (e.g., a cashier has custody, not possession, of money in a register).**

Larceny

- **The element of larceny typically includes:**
 - **unlawful taking or carrying away of money or property of another without the consent of the owner with the intent to permanently deprive the owner of its use or possession.**

Breach of Fiduciary Duty

- **People in a position of trust or fiduciary relationship, such as officers, directors, high-level employees of a corporation or business, agents and brokers, owe certain duties imposed by law to their principals or employers. The principal fiduciary duties are loyalty and care.**

Breach of Fiduciary Duty

- **The *duty of loyalty* requires that the employee/agent acts solely in the best interest of the employer/principal, free of any self-dealing, conflicts of interest, or other abuse of the principal for personal advantage.**

Breach of Fiduciary Duty

- A corporate officer, director, or high-level employee, as well as other people in a fiduciary relationship, must conduct business affairs prudently with the skill and attention normally exercised by people in similar positions.
- Fiduciaries who act carelessly or recklessly are responsible for any resulting loss to the corporate shareholders or other principals.
- Damages may be recovered in a civil action for negligence, mismanagement, or waste of corporate assets.

If I Suspect Fraud, Should I Report It?



Reporting is an Obligation

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Facts About Fraud

- 39.5% of frauds involve employees
 - Median loss **\$70,000**
- 41.2% of frauds involve managers
 - Median loss **\$150,000**
- 19.3% of frauds involve owners/
executives
 - Median loss **\$834,000**

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