

Accounting Gumshoes

Lawyers increasingly rely on specialists to uncover fiscal fraud

BY TERRY CARTER

Copies of three drawings Picasso made of a bull hang on Fred Smolen's office wall. They are the first, middle and last works in an 11-drawing set that reveals the development of a concept.

Picasso began by sketching out a complete bull with bulk and hide and detailed features. Over several years, Picasso's drawings became more abstract. Finally, there were just a few basic strokes, but the essence of the bull was there. And that was the finished product.

Picasso's progression is Smolen's template for his own work as a forensic accountant; he reduces the complex and distills it. So by the time he takes the witness stand, he's prepared to slice away a lot of bull and help a judge or jury see the essence of a scam.

Accountants Flock to New Frontier

"What Fred and others are doing is the new frontier, especially in complex criminal litigation," says Theodore Greenberg, deputy independent counsel in the probe of former Agriculture Secretary Mike Espy. Greenberg has hired Smolen and his Financial Investigations & Services Inc., of Washington, D.C., as chief forensic accountant in that investigation.

It is an expanding field, as more and more certified public accountants are being used as investigators and expert witnesses. To be a forensic accountant, "You've got to have knowledge of fraud, what it looks like, how it works, how and why people steal," says Robert J. Lindquist, a principal in the Washington, D.C., office of Price Waterhouse. "You're the bloodhound much more than the watchdog."

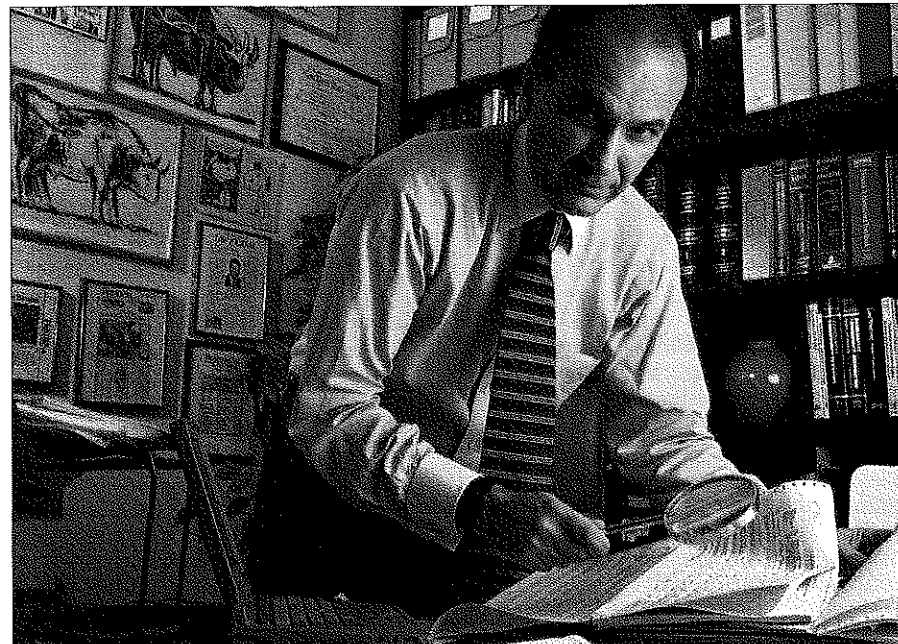
Although federal hiring of forensic accountants is increasing, it usually is on a case-by-case basis. But the U.S. Justice Department went a step further this year and entered into a \$500 million contract for future services, including forensic accounting work.

One of those contractors, DynCorp of Reston, Va., brought in

Smolen and his D.C. firm as a joint venturer.

The big accounting firms are racing to create or beef up groups of these accounting gumshoes, paying top dollar and cherry picking for big names. Price Waterhouse, for example, recently created a 100-per-

centage new forensic investigations group. Besides knowledge of accounting, he says, a forensic accountant also must have an investigative mentality, interviewing skills, and practical knowledge of what is evidence and of the way the courts work.



Fred Smolen's resumé includes unraveling a \$200 million mortgage-loan Ponzi scheme.

son forensic accounting venture. The competition has been hard on the well-known investigations company Kroll Associates, which has been losing some of its senior sleuths to the start-ups.

Under siege, Kroll recently put itself up for sale and was acquired by Insurance Services Group, a division of Equifax, the provider of credit and insurance data.

Until the term forensic accountant gained currency during the O.J. Simpson trial, when plaintiffs used such experts to hunt for assets, few members of the general public had heard of the specialty. Comedian Harry Shearer, covering the Simpson civil case for the online *Slate* magazine, noted that when he attended career day in high school there was no table display for work in forensic accounting.

The new discipline requires a unique set of skills, according to Lindquist, who has been putting

And the good ones, says Justin Williams, head of the criminal division for the U.S. attorney in the Eastern District of Virginia, "are articulate and make very compelling witnesses. It's not just some nerd on the witness stand."

A Boost From S&L Scandals

Government use of private forensic accountants began to swell in the late 1980s, and Smolen rode the wave. It was a time when the deregulation of the savings and loan industry came home to roost in the form of collapses and scandal.

Over the years, Smolen has helped unravel a \$200 million mortgage-loan Ponzi scheme by Virginia-based Landbank Equity Corp. and investigated the collapse of Centrust Savings Bank in Miami, the second biggest thrift failure.

The Landbank Equity case may have been one of the biggest, most complex savings and loan

frauds brought to trial. In 1987, the U.S. attorney for the Eastern District of Virginia sent his chief fraud investigator, Joseph Fisher, to look into a stalled investigation of the company, which offered second mortgages to high-risk borrowers at a very high cost.

Fisher, now a lawyer with the Arlington, Va., firm of Cohen, Gettings, Dunham & Davis, was able to salvage a meandering investigation with Smolen's help.

The accountant pieced together the company's densely layered activities. He determined that the company had: used spinoff companies to inflate property appraisals and hide foreclosure losses; sold to other S&Ls bad loan portfolios that included notes on property that did not exist; charged points that sometimes were as high as 40 percent of the loan value; and used new loans to cover losses on the old.

The result was a much better understanding of the mushrooming Landbank scandal and serious prison time for those responsible. The company's founder and his wife got 40 and 31 years in prison, respectively, for felonies that included conspiracy, racketeering, tax fraud and obstruction of justice.

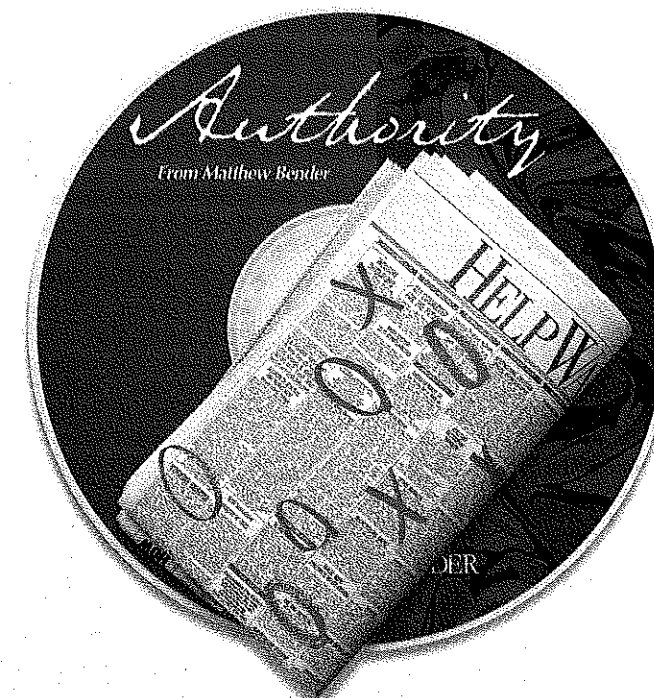
And because the investigation went to the heart of the scam, it also replaced suits with prison garb for a lawyer and an accountant who had knowingly helped the scheme along. Fisher carried his newfound knowledge to the Office of Thrift Supervision, created to help clean up the S&L mess, where he used Smolen in an enforcement action against Centrust Savings.

Fisher is sold on the forensic accounting approach to such investigations and particularly on Smolen's business-school approach to investigation management. Target dates are set for completing segments of the investigation, charts track interrelations between those segments, and a drawing of a "decision tree" depicts the big picture.

"With mushrooming litigation and companies and clients wanting to cut costs, this streamlining is unique and now has a track record," says Fisher.

Greenberg, the deputy independent counsel, also has changed his way of thinking about complex financial investigations. He now has copies of the three Picasso bulls on his office credenza. "It reminds me to keep it simple," he says. ■

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