

Forensic Accounting – A Bridge between Legal and Accounting World

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How often have you heard someone describing him or her as a Forensic Accountant and it leaves you confused? Why? The term forensic throws up an image of a lab, scientific investigation techniques and imprints of a crime while you believe an accountant seems to be engaged with your finances and tax.

In effect, forensic accounting represents an area of finance that combines detective skills and financial acuity. A forensic accountant digs deeply into financial reports and looks out for inconsistencies. And while they are doing so, they will ceaselessly be persistent about the supporting documents which is a must to fortify the legal aspect.

This is how a forensic accountant can be of help in the court room which has traditionally been assumed to be the domain of lawyers and legal fraternity. Just as there are various lawyers, there are many types of accountants too; such as auditors, tax consultants, cost accountants, book keepers and practicing accountants. Sufficient to say, just as all lawyers are not trial lawyers, not all accountants are forensic accountants.

We are all aware that litigation processes need special skills to be successful in establishing a fact. Similarly, forensic accountants require special skills to deal with numbers and to testify in the court as an expert.

They differ from others in the accounting field because they possess the technical accounting background necessary to determine and analyze the relevant accounting records. While at the same time they are familiar with various legal processes such as case management, expert records, interrogations, rule of civil procedure and law of evidence. This combination of skills distinguishes them from other accountants.

They are analytical, sharp and trained to identify and locate information essential to support a case. They understand the criticality of each step in carefully strategizing it prior to filing the suit as well as during litigation. This learning helps the legal counsel develop a clear understanding of the strengths and weaknesses of the case.

A qualified forensic accountant is also well prepared to deal with the process of cross examination. They hold their ground on the face of legal arguments and clever verbal wars in the courtroom.

As they would have reviewed and analyzed the validity of each financial transaction and document, they present their findings in a manner to be convincingly defended during cross examination.

Many lawyers have a rudimentary knowledge and understanding of financial records and accounts. As a result, in cases involving large accounting data and financial reference further expert analysis of relevant data is required to support the standpoint. Identifying such accounting data records and its correlations based on necessary data mining and rearrangement are paramount to proper preparation in cases where financial transactions are a source of dispute.

The use of a forensic accountant in a Financial Misappropriation legal tangle are many. Let us understand the significance of each:

1. Financial statements may appear to be relatively straightforward and may not necessarily highlight the manipulation as they are a summary of financial data. A forensic accountant knows how to interpret the data and unveil the story behind these numbers which appear innocuous.
2. There is a clear need to include forensic accountants in the deposition of other experts and fact witnesses. This aids the counsel in identifying opportunities to obtain clarification on relevant financial data during court proceedings.
3. A forensic accountant can also be of great assistance in identifying the non-availability of documents which have not been provided by the expert of opponent during case management. This will help to challenge that part of testimony which is not supported by relevant document . If the judge is convinced that part of the testimony cannot be accepted.
4. It is also important for forensic accountants to attend the deposition so that during breaks, necessary feedback can be provided to counsel. An experienced forensic accountant knows that he cannot be an active part of the deposition and must interact only with his counsel to remain objective.

5. A detailed-oriented and agile forensic accountant can quickly analyze the calculation of damages and identify the weaknesses in the damage measurement which may not be apparent to his/her client or to the counsel. For instance, let us consider a scenario where in absence of proper records and paper trails, an expert has used a simulation technique based on historical data. This technique was used to derive the best expected process loss percentage figure during the period when actual data were missing. Now, it is the forensic accountant that will confirm whether the methodology and technique used by the expert is scientific and well accepted amongst accounting communities through his research and knowledge. In absence of such assistance, flaws in expert calculation, if any, will not be highlighted during the deposition. Experience suggests that lawyers fail to raise questions during cross examination where complex accounting calculation is involved. It is the forensic accountants who can then draw the attention to loopholes that may exist in the report. In summary, testing the level of accuracy of such complicated calculation needs the assistance of a forensic accountant.
6. In yet another scenario, a forensic accountant's role is very significant. Inventories on the books can be valued based on Last in First Out (LIFO) or First in First Out (FIFO). This may not appear important to the lay person but if the current market for that product is declining / rising, it will have a significant impact on the valuation of inventory depending on the method used by the opponent. Similarly, by switching from one method to another, it also makes the comparison of yearly results inconclusive unless adjusted accordingly.
7. Again, in cases of insolvency where someone has declared himself as bankrupt to avoid payment of damages as awarded by the Court, a forensic accountant can be of immense value through their assistance. During case management by expertise counsel, they may ask for all relevant accounting source document to demonstrate whether the defendant has siphoned out money via various means to escape the liabilities.
8. It has been observed that often counsels assume that they can handle the matter during the phase of discovery or case management as they have requested everything that is needed or applicable for the case and the discovery is over. Now when a forensic accountant is engaged he/she may discover that a number of vital documents which are necessary to properly analyze opponent's claims have not been asked for. Unfortunately,

since the counsel has received everything that was requested the forensic accountant's expertise cannot be fully utilized. It may incur some extra cost but it is essential to get a forensic accountant in the team at a very early stage of the trial for a fair outcome.

I shall conclude on a very significant note. Forensic accountants are not only required in big corporate scandals such as Tran's mile, 1MDB or Silver Birds to look behind numbers. There are several small, seemingly low-profile entities that are increasingly being found indulging in fraudulent financial transactions. Most of them manage to escape the expert eye. Forensic Accounting is required to unearth and tie down suspects here too and recover the damage. For a systematic and detailed analyses of financial transaction, records and documents, forensic accountants are essential either as consultants to the lawyer, as an investigator or as experts, who can testify to reveal facts which are normally overlooked.
