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Modern-day Sherlock Holmes

By Bernadette Starzee

James T. Ashe's encounter with Hollywood as a numbers crunching gumshoe started out with a big heist and ended with the suspect taking the big sleep.

Partner-in-charge of the advisory services group at Marcum in Melville, Ashe caught the case several years ago when the firm was retained by the co-op board of 200 E. 74th Street in Manhattan. The board had an idea the co-op's treasurer, Andrew Kissel, was stealing with both hands. Ashe's team discovered a fictitious entity with a similar name to the co-op had been set up and a brokerage account was wiring money to the phony account. It wasn't chicken feed. The accountants' discovery that \$3.9 million had been stolen led to criminal charges against Kissel, who later moved to Connecticut and was found murdered in his basement. A movie about the case was made, but it was slightly off the mark.

"In the movie, the accountant for the co-op board didn't look like me," Ashe said.

Motive and opportunity

These are boom times for forensic accountants. A down economy and an explosion in technology have brought more fraud to light, providing opportunities to not just recoup money for clients, but free the inner private eye and gain insight into how a criminal mind is formed.

"Hard economic times cause more people who may be fairly honest to push the envelope," said Joe Nelson, a partner in the litigation and business valuation group of Berdon, which has an office in Jericho.

Tough times also make theft more noticeable. "Fraud goes on all the time, but it's easier to detect when the cash flow isn't there," said Phillip Kanyuk, partner-in-charge of the business valuation and economic damages department at Holtz Rubenstein Reminick in Melville.

Technology

The advancement in technology over the past few years has provided a significant boost for forensic accountants, Nelson said. But, he noted, it's been a double-edged sword, since the bad guys have it, too.

High-tech tools allow forensic accountants to analyze large volumes of data quickly and efficiently, and look for anomalies that can direct their focus. Technology has made third-party data more accessible, as well. Kanyuk recently investigated a trucking company accused by a union benefits fund of not paying truckers

their due compensation. "The business owner claimed he lost his records in a flood, but we were able to rebuild the business activity by getting purchase records from customers and using MapQuest to figure out how long the drivers had to travel from Point A to Point B," Kanyuk said.

Detective work

Forensic accountants may be hired by attorneys, appointed by courts or engaged by clients directly. "We use deductive reasoning and tie together what we have learned from documents and interviews," said Eric Kreuter, a partner in litigation support at Marks Paneth & Shron, which has an office in Woodbury. "We're like the modern-day Sherlock Holmes."

Forensic accountants have to think things through and often find indirect methods to solve puzzles. "To estimate a dry cleaner's total sales, we might look at how many hangers it purchased," Kanyuk said.

Many times though, you have to have a relationship with lady luck. "A good part of wrongdoing is discovered either when a whistleblower tips you off during an interview, or if you trip over something that catches your eye," said Barry Pulchin, director of litigation support services for the Metis Group in Plainview.

Pulchin recalled valuing a restaurant for a matrimonial case. He and a colleague went to eat there and immediately realized there was something fishy with the restaurant's books when he spied numerous employees – "chefs, cooks and bartenders" – despite a claim of only two people on the payroll.

Discrepancies between cash receipts and reported inventory raised a red flag in a case involving a seafood processor. According to Nelson, auditors had counted the inventory of packaged seafood at the warehouse, but never opened the packages. Nelson's team interviewed night workers and discovered the company had packaged fish guts to fake out the auditors.

When partners part ways

Over the past three years of a dismal economy, personal and professional tragedies have provided steady work for accountant-detectives. "Wrongdoing is often discovered when businesses are valued for the dissolution of a partnership or a marriage," Pulchin said.

Many divorce cases that started at the height of the market ran into roadblocks that led to

further investigation. "A primary residence and retirement accounts that may have been worth \$1 million to \$1.5 million dwindled to \$500,000 to \$1 million, and cases that were on their way to a reasonable settlement suddenly got more difficult," Ashe said. In one case, the wife was going to get the primary residence and some investments, while the husband would keep his Merrill Lynch stocks. "But then Merrill Lynch stocks almost disappeared off the globe in late 2008, and the case became more complicated," Ashe said.

While working a matrimonial case, Pulchin noticed a major discrepancy between a doctor's lifestyle and his reported income. With some bulldog digging, Pulchin discovered the doctor had set up a separate bank account where he was hiding \$2 million of annual income. The discovery wound up being a "fiasco" for the doctor, Pulchin said, forcing quick travel plans. "He skipped the state, and his property in New York was seized," he said.

The dissolution of businesses is a treasure trove for discovery of fraud. "Healthy businesses don't dissolve as often as unhealthy ones," Kanyuk said. "A reason a company fails may be that one of the partners was raiding the business." In a construction firm's bankruptcy case, Pulchin discovered the president had been stealing earnings and gambling them away.

Corporate litigation cases are up substantially as well, Ashe said. "These cases were in a holding pattern during 2008 and 2009, because no one wanted to spend the money to litigate, and now there's pent-up demand," he said.

An ounce of protection

While companies are more aware today of the need to set up controls to prevent fraud, the economy has limited their ability to protect themselves. "Companies may have the controls set up but not the staff to follow through," Kanyuk said. "More tasks that would have been done by higher-level staff are being piled on bookkeepers, and segregation of duties is at risk."

With regard to protection, companies have a long way to go. "Until there's more comprehensive commitment on the prevention side, guys like me on the detecting side are going to be busy," Nelson said.