



Forensic Accounting: A Tool of Detecting White Collar Crimes in Corporate World

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ABSTRACT

Forensic accounting investigates financial information for the purpose of conveying complicated issue in a manner that other can easily understand. 'Forensic Accounting' approach has a vital role to play in bringing down the degree of such adverse happenings in the corporate sector. It includes enforcement of laws, court litigation and disputes, etc. The issue of white-collar crime was first addressed by Edwin H. Sutherland during his presidential address at a meeting of American Sociological Society way back in 1939. It is a widespread fact that the corporate crime has been inflicting far greater damage on society compared to all street crimes combined. In the American context, it has been estimated that losses from such crime may be as high as 200 billion dollars every year. To sum up, 'forensic accounting' is a very constrictive tool for detecting white collar crimes in the present e-accounting era. For high level of super success of forensic accounting needs to develop fraud schemes, investigation techniques, and the law to fulfill the expectations of clients.

Keywords : Forensic Accounting, White Caller Crime.

Introduction

'Forensic' means relating to the legal matters i.e. law enforcement, court litigation, legal disputes, and so on. Forensic accounting is white collar crimes detective tool that are used by law enforcement and intelligence agencies to uncover, track and document terrorist activities. It is a widespread fact that the corporate crime has been inflicting far greater damage on society compared to all street crimes combined. The dollars lost due to corporate crimes and violence wins landslide position. The losses from a handful of major corporate frauds in India LIC housing finance Loan, 2G Spectrum, Tyco, Worldcom, Enron, Satyam swamp the losses from all street robberies and burglaries put together. According to Harper's research A Swiss bank lost last a minimum of \$100,000,000 because of a typing error. In the US Context, it has been estimated that losses from such crime may be as high as 200 billion dollars every year.

Occupational crimes differ from Common Street crimes only in that people in a position to do so-Medicaid fraud commit it can typically only be committed by physicians, and banks employees in position of trust can only commit bank embezzlement. The motive of occupational criminals is same as to those of street criminals- to obtain benefits quickly with minimal effort. According to British Prime Minister Gordon Brown, "What the use of fingerprints was to the 19th century, and DNA analysis was to the 20th century, so financial information and forensic accounting has come to be one of today's most powerful investigative and intelligence tools available in the fight against crime and terrorism." (www.ehow.com). The term white Edwin Sutherland coined white-collar crime in the 1930's who defined crime 'committed by a person of respectability and high social status in the course of his occupation.' He raised concerns over the criminological community's preoccupation with the low status offender and "street crimes" and the relative inattention given to the offenses perpetrated by people in higher status

occupations (Cynthia Barnett, 1999). In 1979 the U.S. Congress defined white collar crime as "an illegal act or series of illegal acts committed by non-physical means and by concealment or guile, to obtain money or property or to obtain business or personal advantage"

Characteristics of White Collar Crimes

- These crimes are committed by people of high status in society such as doctors, advocates, chartered accountants, governments' officials and not by hardcore criminals for e.g. Thieves robbers, dacoits, murders, rapists, etc.
- The crimes differ from the traditional crimes as fraud, misrepresentation, adulteration, malpractices, irregularities etc
- These crimes are committed by means of deliberate and planned conspiracies without any feeling and sentiments.
- When socio-economic crimes are committed people tend to tolerate them because they themselves indulge in them and they themselves often identified with those who do so.
- Originally white-collar crimes meant to describe middle and upper class businesspersons who committed crimes in normal course of their work. But now it refers to a wide variety occupationally oriented violations committed by persons in any class.
- The victims of socio economic offences are normally the entire community, society or even the entire nation besides the individuals.
- These crimes do not involve or carry with them any stigma while the traditional crimes carry a stigma with them involving disgrace and immorality.
- These crimes constitute a separate category because the control of such crime 'involves the protection and preservation of the general health and economic system of the entire society against the exploitation and waste.'

Statement of Problem

Now a days, white collar crimes and frauds are increasing are world widely. The success and failure of corporate are directly related to the internal environment. A number of state laws, international standards, accounting standards, auditing standards, etc. have already been enforced or prevalent on wider scale, but still the corporate failures have not yet come to a halt. Enron in 2001 and Satyam in 2009 are one of the examples of such failures.

When an accounting fraud involves reporting cash that is not there, it is typically the result of adding fraudulent transactions, such as cash sales to customers, that never happened. These types of transactions need to be audited to assure their legitimacy. In the case of Satyam, the auditors signed off on the financial reports, raising concerns that even the strong auditing standards imposed by Sarbanes-Oxley may not be sufficient. Finally, "white collar" crimes cannot be viewed as less of an evil than any other form of crimes (Sudhakar V. Balachandran, 2009).

The CEO of a company need not rely on financial statement because of white collar crimes. White collar crimes include general fraud, bankruptcy fraud, bribery, insider trading, embezzlement, computer crime, medical crime, public corruption, identity theft, environmental crime, pension fund crime, consumer fraud, occupational crime, securities fraud, financial fraud, and forgery. Edwin Sutherland, a criminologist and sociologist, first popularized the term "white collar crime" in 1939, defining such a crime as one "committed by a person of respectability and high social status in the course of his occupation" (karisable.com/crwc.htm).

Types of White Collar Crimes

- Bank Fraud
- Blackmail
- Bribery
- Cellular Phone Fraud
- Computer fraud
- Counterfeiting
- Credit Card Fraud
- Currency Schemes
- Embezzlement
- Environmental Schemes
- Extortion
- Forgery
- Health Care Fraud
- Insider Trading
- Insurance Fraud
- Investment Schemes
- Larceny/Theft
- Money Laundering
- Securities Fraud
- Tax Evasion
- Telemarketing Fraud
- Welfare Fraud

Methodology

This paper is based on descriptive analysis of the active participation of forensic accountants in solving white collar crimes. For the micro-level study, secondary sources of data collection were used. For enhancing the quality of research, use of available literature on forensic accounting, its application in modern corporate world and inclusion of experts' views were resorted to by the authors.

Brief Literature of Review

"Forensic accounting is the use of professional accounting skills in matters involving potential or actual civil or criminal litigation, including, but not limited to, generally acceptable

accounting and audit principles; the determination of lost profits, income, assets, or damages, evaluation of internal controls, fraud, and any other matter involving accounting expertise in the legal system". The word 'forensic' is defined by Black's Law Dictionary as 'used in or suitable to courts of law or public debate.' Therefore, 'forensic accounting' is actually litigation support involving accounting. Accordingly, most of the fraud examinations/investigations are 'forensic accounting,' but not all forensic accounting is 'fraud examination.' For example, the valuation of a property in a minority shareholder derivative suit may be included under forensic accounting, but it may not necessarily involve fraud." (<http://www.acfe.com/resources/fraud-101-forensic-accounting.asp>) "Forensic accounting is the specialty practice area of accountancy that describes engagements that result from actual or anticipated disputes or litigation." (http://en.wikipedia.org/wiki/Forensic_accounting).

According to the Webster's Dictionary, "Forensic Accounting" means, "belonging to, used in or suitable to court, of judicature or to public discussions, debate and ultimately dispute resolutions". It is also defined as an accounting analysis that is suitable to the court, which will form the basis for discussion, debate and ultimately dispute resolution. However, forensic accounting is different from the old debit or credit accounting as it provides an accounting analysis that is suitable to the organization which will help in resolving the disputes that arise in the organization. (Owojori, A.A, 2009). And finally, the American Institute of CPAs (www.aicpa.org) combines the forensic accounting topic with information on business valuation services in its Forensic and Valuation Services Center (<http://fvs.aicpa.org>).

International Standards Related to Forensic Accounting

Forensic accounting is based on legal and ethical standards. The 'Accounting Professional and Ethical Standards Board' issued APES-215 Forensic Accounting Services which is effective for engagements or assignments commencing on or after 1st July 2009 and it replaces 'APS 11 Statement of Forensic Accounting Standards' and 'GN-2 Forensic Accounting'. Requirements for the role of expert witness will be mandatory, and for the first time, the standard will apply to accountants working in the corporate sector and in government. (APES-215, 2008).

According to the Institute of Chartered Accountants in Australia, for forensic accounting, APS-11 is enforced. The APS-11 is limited to the professional aspects of forensic accounting services as distinct from any responsibilities which may be imposed by law or other authority. (APS, ICAA, 2002).

Forensic accountant

The role of the forensic accountant has significantly enhanced during the last few years for many reasons, including the need for greater scrutiny of 'corporate governance' brought about by the Sarbanes-Oxley legislation and the widespread recognition of the risks and prevalence of financial fraud in today's complex business environment. The forensic financial experts are increasingly becoming more complex, requiring multiple skill sets beyond a typical understanding of financial records and generally accepted accounting principles (GAAP). Knowledge of forensic accounting is only a part of the equation. More often, a team of forensic financial specialists, with a variety of skill sets, is needed to address many challenges posed by a case. (Ken Neumann and Mary O'Connor, 2008).

Knowledge & Skills of Forensic Accountant

A forensic accountant is expected to be a specialist in accounting and financial systems. Yet, as companies continue to grow in size and complexity, uncovering fraud requires a forensic accountant to become proficient in an ever-increasing number of professional skills and competencies. Here are some of the broad areas of useful expertise for a forensic accountant:

- An in-depth knowledge of financial statements and the ability to critically analyse them. These skills help forensic accountants to uncover abnormal patterns in accounting information and recognize their source.
- A thorough understanding of fraud schemes, including but not limited to asset misappropriations, money laundering, bribery, and corruption.
- The ability to comprehend the internal control systems of corporations, and to set up a control system that assesses risks, achieves management objectives, informs employees of their control responsibilities, and monitors the quality of the programme so that corrections and changes can be made.
- Proficiency in computer and knowledge of network systems. These skills help forensic accountants to conduct investigations in the area of e-banking and computerized accounting systems.
- Knowledge of psychology in order to understand the impulses behind criminal behaviour and to set up fraud prevention programmes that motivate and encourage employees.
- Interpersonal and communication skills, which aid in disseminating information about the company's ethical policies and help forensic accountants to conduct interviews and obtain crucially needed information.
- Thorough knowledge of company's governance policies and the laws that regulate these policies. Command of criminal and civil law, as well as, of the legal system and court procedures. (The Chartered Accountant January 2007)

Criminal liability of the Corporations

In Indian as well as in international perspective the whole legal framework to hold the corporations and multi national company's accountability are systematically being dismantled, even as corporations and other agents of

globalization dictate policies of nations. The corporate sector enjoys far more rights than the common people. With the onset of the new trade regime, national laws are being changed to empower corporations with the right to hire and fire at will, to get the first right over natural and community resources. But now the time has come to put a check over their arbitrary acts. There has been a debate as to whether a Corporation can be held criminally liable. The explanation can be given with the help of the following theories:

1. Nominalist theory of corporate personality: According to this theory corporations as nothing more than collectives of individuals. In this an individual first commits the offence; the responsibility of that individual is then imputed to the corporation.
2. Realist theory: According to these theory corporations have an existence, which is to some extent independent of the existence of its members. Here, the responsibility of corporation is primarily. In my opinion realist theory looks more convincing and practically applicable. (www.nliu.com)

Conclusion

By the White collar crimes in corporate leads to citizens losing trust, ultimately the people not to invest funds in corporate world and the economy will affect. The government across the world have given a free hand to corporations to exploit the natural and community resources, while depriving the common people. The government should amend in the current laws and in every case the offence is only punishable with imprisonment or imprisonment and fine and the offender is the company or other body corporate or an association of individuals, it shall be competent to the court to sentence such offender to fine only, through this we can prevent such kind of crimes at primary stage. In the filed of Accounting Forensic accounting is an extremely effective in detecting, investigating, and preventing frauds. In the environment where the level and complexity of frauds is increasing, the demand of forensic accounting is notably growing.

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