

FRAUD-RELATED **INTERVIEWING**

FRAUD-RELATED **INTERVIEWING**

SECOND EDITION

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*Dedicated to the professionals at the
Association of Certified Fraud Examiners' Headquarters
in Austin, Texas, and those persons comprising the
ACFE Chapters located throughout the world.
Fraud Fighters one and all.*

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PREFACE

Connecting the Text/Workbook to the Inquiry of Fraud

THE EIGHTH CIRCLE

In Dante Alighieri's *Inferno* (the first of three parts in his epic poem *Divine Comedy*), he is guided by the Roman poet Virgil on a journey through hell. They must cross nine concentric circles. Every circle represents a different classification of offense. Each succeeding circle characterizes an increase in the egregiousness of the violation. The eighth circle, the second most nefarious, is reserved for fraud.

Within the eighth circle there is another circle called *malebolge* (evil pockets). Within that are ten concentric ditches called *bolgias*. Each ditch is reserved for a specific classification of fraud. And while *Inferno* was published in the fourteenth century, the diversity of fraudulent manifestations remains with us to this day.

Centuries have passed since the publication of *Inferno*, but, in a manner of thinking, not much has changed. Fraud is evidenced on all levels of human endeavor—federal, state, local, private sector, public sector, occupational, science, secular and spiritual organizations, national and international. It is impossible to read or watch the news and not be confronted with yet more incidents involving fraud. And inversely, within society, as the manifestations of fraud increase, the levels of trust decrease.

No matter the type of *bolgia* (fraud), the commonality is the mindset of the fraudster. For those of us tasked with interviewing the possible fraudster, we have no boatman named Charon to ferry us across the river. We have no Acheron to make the connection with the fraudster. We have no

Virgil to guide us. We are on our own, but we are not without a boat or a guide. That boat, that guide, is the fraud-related interview. And that is the purpose of our study—to become better able to ferry the boat and possess a variety of options as to what to do within the conduct of the fraud-related interview. Our focus is upon the interviewing process as it applies to a fraud-related inquiry.

HOW TO GAIN THE MOST FROM THIS TEXT/WORKBOOK

This second edition has been expanded to accomplish two goals: enhance the opportunity for “hands-on applications” to afford opportunities for the interviewer to process and apply the material, making it their own and to bring the author and other fraud-related interviewers “operationally closer to the interviewer.”

Becoming proficient at conducting fraud-related interviews does not happen by osmosis. As with any skill, we advance by a process of learning, doing, and refining. Take golf as an example: someone can teach us the fundamentals of golf. But, at some point, we must take the club in hand, walk onto the golf course, and take a swing. This second edition is designed to link the information directly to the opportunity to take a swing. It affords the opportunity to “do.”

Towards the second goal, investigative and interviewing-related experiences, not only of the authors, but also from a myriad of consummate, fraud-related interviewers, have been added to provide function and additional insight. Collectively, we want to place ourselves “right by your elbow” to link the information provided to its application in the field.

As the second edition is being revised, related video lectures are in the developmental state and will subsequently be available. A listing of the videos can be obtained by contacting dwrabon@msn.com

An additional function of this edition is to address a work in progress. The work in progress is your fraud-related interviewing capabilities and effectiveness. The objective herein is to respond to the diversity of fraud-related interviewing skill levels. On one extreme you are new to the fraud-inquiry arena and now find yourself responsible for conducting associated interviews. You may be an auditor, a newly appointed investigator in the public or private sector, a human resource director, CEO, or the like. On the other extreme, you have been conducting fraud-related interviews

since the creation and interviews in general well before then. In between the two extremes are most interviewers. You have knowledge, skills, and abilities regarding the interview process and are now focusing on fraud-related interviewing specifically and are determined to improve even more.

Below are additional resources that can provide the opportunity for further study of your job-task related interviewing responsibilities.

Interviewing and Interrogation, 3rd Edition, by Rabon and Chapman, Carolina Academic Press

Persuasive Interviewing (text and **Participant Workbook**), by Rabon and Chapman, Carolina Academic Press

Investigative Discourse Analysis, 2nd Edition, by Rabon and Chapman, Carolina Academic Press

The website for Carolina Academic Press is www.cap-press.com.

Wherever you may find yourself vis-à-vis the skill level necessary to conduct fraud-related interviews, this second edition is designed to take you from where you are to where you would like to be. As with most things in life, you will get out of this edition what you invest into processing the information, intensely addressing the questions, and meticulously performing the exercises. A cursory reading of this text will result in correlating benefits. (As if someone has explained the fundamentals of golf, and we have put forth no further effort to learn the game).

A methodical, deliberate work-through of the material will broaden the interviewer's perspective and provide additional options for responding to the ever-changing dynamic within the conduct of a fraud-related interview. Processed thoroughly, the text can become a continual resource for enhancing fraud-related interviewing capabilities. In short, you can make this text your own, personal resource.

So, here is a recommendation to enhance the learning efficacy of this material: in the spaces provided, *write your answers* to the questions. The physical act of writing along with the concurrent cognition spurred by the question itself, together will serve to make for a much more effectual learning experience. Also, arduously "*do*" the exercises.

While an instructor as well as a text can provide the mechanics of the fraud-related interviewing process, only individual study, practice, application and thorough, well-digested experience can make it an art form.

All the material elements herein are designed to assist in transitioning the interviewer from their current level (as they define it) of fraud-related interviewing to the skill level to which they aspire.

The questions asked and communication devices utilized by the interviewer should be examined carefully. They are structured to serve as questioning reference examples and interviewing techniques in the interviewer's own subsequent fraud-related interviews as well as operating within the context of the interview.

Additionally, through debriefings with convicted fraudsters, the material incorporates the information provided by their cognitions before and during the commission of the fraud, efforts to avoid detection and mindsets during the conduct of the interview. The information provided within the debriefings allows for the examination of questioning techniques and insights into the cognitions of the fraudster. The responses reveal the fraudster's cognitions before, during and after (within the fraud-related interview) the commission of fraud.

Within the material, you will note, *Interviewing Inquiry 1*, *Interviewing Inquiry 2*, etc. These inquiries serve as examples of questioning techniques and reference points for information amplification and opportunities to "take a swing."

For those of us tasked with conducting fraud-related interviews, no one has more valuable information for gaining insight into the mindset of the fraudster than the fraudster there before you. So, whether within the conduct of a fraudster debriefing or the fraud-related interview itself, the fraudster can "teach" you insights that are invaluable.

Feedback, questions, shared experiences and observations from the "field" are always appreciated. We can be reached at dwrabon@msn.com and te.chapman@hotmail.com.

PROSECUTING FRAUD AND THE IMPORTANCE OF THE FRAUD-RELATED INTERVIEW

One of the major challenges in the fight against fraud is the prosecution thereof. Fraud can, and often does, involve a complexity of undertakings on the part of the fraudster. Consequently, it is a daunting task for the prosecution to explain those complexities to twelve people who could not manage to avoid jury duty. Often the case is prosecuted by a newer assis-

tant district attorney with limited trial experience who does not possess an abundant knowledge of the financial complexities involved in many fraud cases, and this may result in the blind leading the blind.

Finally, and potentially the most debilitating to the successful prosecution, is the inadvertent creation of a sympathetic jury during the conduct of the trial. Adding these three dynamics together, it is easy to see why prosecutors are often reluctant to take a fraud case to trial.

Here is fraud reality 101: the investigation or audit can produce a preponderance of evidence but no admission of guilt; the prosecution may be unwilling to take the case and may therefore be open to the prospect of allowing the fraudster to plea bargain or walk.

Conversely, the case may not have involved a great deal of evidence initially, but *an admission was obtained!* In this case, the prosecution would be much more receptive to taking the case forward. The fraud-related interview as an admission-seeking vehicle is a fundamental focus of this text.

This text concerns itself with the interview process as it relates to the fraud investigation, a fraud-related audit, or inquiry into an alleged fraud. Our position is that the dynamics of fraud itself are inexorably connected to the subsequent fraud interview and ultimately the outcome of the investigation. The interview is not an isolated event but rather a part of the *nagare* (a Japanese word meaning “flow”) of the entire (in this case) fraud dynamic from precursors to the commission of the crime to closure.

In the fraud-related interview, the interviewer connects three different time periods—the past, the present, and the future. The past addresses the dynamics of the individual and his or her previous behavior resulting in the commission of the fraud. The future is the sought-after successful outcome of the fraud investigation. The present involves the conduct of the interview itself. In the present, the interviewer seeks to connect the past and the future—the *flow*, if you will, of all three.

Like Shakespeare’s Hamlet, the complexities of mind and motive make fraud-related interviewing one of the most challenging and intellectually exciting of the various crime-specific interview dynamics. As we examine together these complexities, our twofold purpose in developing this text is to enhance the interviewer’s knowledge, skill, and abilities in the fraud-related interview and, just as importantly, to open the interviewer’s mind to the idea:

What a piece of work is man! how noble in reason! how infinite in faculty! in form and moving how express and admirable! in action how like an angel! in apprehension how like a god! the beauty of the world, the paragon of animals! (*Hamlet*, Act II, scene II).

If you have an interest in exploring the fraudster as, indeed, a most fascinating and challenging “piece of work,” then now, in your hands, is the right resource for you. Collaborate with us to make it yours. Let’s get going.