



Forensic Accountants Society of North America

# FASNA FORUM

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## Proving a Fraud Loss and Mitigating Investigation Costs

*By David G. Hoagland, CPA, Benson & McLaughlin, P.S., FASNA member firm in Seattle*

In recent years FASNA member firms have seen many claims for losses from employee fraud. The cases have involved theft of inventory, fraudulent vendor schemes, fraudulent payroll schemes and many more.

Proving a fraud loss can be difficult due to the nature of fraud. Specifically when the perpetrator is trying to cover up the theft. Obtaining the necessary evidence to substantiate a claim can be a time consuming and expensive process for both the insured and the insurance company.

It all usually starts something like this: The call comes in. Your insured has just discovered an employee has been embezzling funds over several years. You direct the insured to prepare documentation of the loss to substantiate the claim. The insured either attempts to document the loss themselves or, frequently, engages a CPA to prepare the documentation of the fraud. Some time later, the insured presents you with pages of papers and schedules that add up to a large claim. Immediately, you

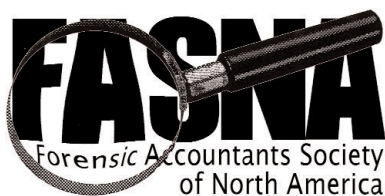
notice problems with the evidence and schedules and engage a forensic CPA to verify the amounts claimed and analyze the evidence provided, especially considering the dollar amounts claimed.

At this point, your objective should be to obtain the necessary documentation to substantiate payment or denial of the claim at the lowest possible cost. One of the first methods that can be used is to instruct the forensic CPA to obtain evidence of loss only up to the policy limit. For example, if the loss claimed is \$800,000 and the policy limit for the period of the loss is \$150,000, the forensic CPA should be instructed to review evidence documenting only up to the \$150,000. The insured or law enforcement personnel may ask for full documentation to assist them in preparing a civil case for the amount in excess of the policy limit and legal action against the perpetrator, but that should be at their expense and is not the responsibility of the insurance carrier.

Another obstacle often encountered is that the evidence supplied to document the loss is insufficient. For example, as evidence of theft, the insured provides you a copy of a check made out to a furniture store written by the internal

accountant being accused. However, the internal accountant has check writing authority, and the insured's company frequently purchases furniture for their offices. In this case, additional evidence needs to be obtained to document whether the check was written for the personal gain of the internal accountant rather than for the company. This is the point where the insurance company can incur substantial expense by having their forensic CPA obtain appropriate documentation. It is important to remember that it is the responsibility of the insured to provide documentation of the loss. The forensic CPA should instruct the insured to obtain the additional items necessary to document the embezzlement.

The above situations are two examples of how a fraud loss can result in substantial cost for the insurance company. It is important to engage a competent forensic accountant to review evidence provided in a fraud loss and to properly instruct the accountant on the amount of loss required to be documented in order to mitigate investigation costs for the insurance company. FASNA member firms have both the expertise and experience to tackle these complicated claims.





## CASEWORK EXPERIENCE

*FASNA member casework includes, but is not limited to, cases involving:*

- Inventory/property loss
- Employee dishonesty
- Business income loss
- Personal injury or wrongful death claims
- Truth in lending/truth in leasing
- Post judgement matters/calculations
- Loss of income/earnings
- Divorce and fidelity claims
- Business valuation
- Expert testimony
- Fraud

## INDUSTRY EXPERIENCE

*FASNA member experience includes, but is not limited to cases involving:*

- Auto dealerships and transportation
- Colleges and universities
- Construction, contracting, and engineering
- Financial/money management, trust, and estate
- Healthcare
- State and Indian tribal government
- Insurance claims
- Manufacturing
- Real estate
- Restaurant and hotel industries
- Retailing/wholesale

# FASNA Launches New Plans

*Steven B. Bishop, CPA, CVA, Benson & McLaughlin, P.S., FASNA Member*

Members from a majority of the FASNA member firms gathered in Minneapolis recently for a management conference. The principal purpose of the conference was to refine future plans for FASNA and how it can improve its services to the insurance industry and attorneys. The most significant change has been the addition of our Executive Director, Doug Barnes of the HARRINGTON company. Doug's introductory article was in the last Forum. The following are the highlights of our future plans:

- The *Forum*, FASNA's publication on news for the insurance industry and forensic accounting has taken on several changes. The first (and most colorful) is the change from a two color newsletter to four colors. The first issue, which has already been mailed out, showed the dramatic appearance difference. In addition, the frequency has been reduced from monthly to bi-monthly. However, we are enhancing the quality with more articles dealing directly with relevant case studies of member firms and other technical matters. We hope this increased relevance will be a direct benefit to readers.
- FASNA is on a mission. In fact, a mission statement has been developed as an overall guideline for FASNA member firms and their dealings with clients. Look for publication of this mission statement in the near future.
- Aggressive growth: Realizing the importance of strengthening the network for national presence and assisting national insurance firms, FASNA is launching an aggressive recruiting campaign to add fifteen qualified member firms over the next three years. Initial markets include California, New York, Illinois, Texas, and Georgia. FASNA members refined the qualities necessary to be a FASNA member firm. In addition to being a quality CPA firm, the firm must pledge responsiveness to forensic engagements, objectivity, and possess excellent verbal and written communication skills. All firms selected for membership receive specialized training on insurance claims accounting and investigative techniques. New technical resources will also be developed to assist new member firms to provide better and more efficient service. Look for future announcements on new FASNA member firms.
- Greater visible presence: FASNA attended the IASIU and NASP Conferences in the recent past. We will attend the PLRB Conference in San Antonio, Texas on April 17-20, 2005. If you are attending, look for the FASNA display booth and come and say "hi". New brochures will be available to keep you up to date on FASNA and the services we offer.
- Significant re-design of the FASNA website ([www.fasna.org](http://www.fasna.org)): Over the next two months, we are completely revising our website for easier navigation. Enhancements will include a national map to quickly locate the FASNA member firm near your location or claim area. The new website will also include an archive of past *FORUM* issues.
- User input: FASNA recognizes we are in a service business. We welcome any input you may have on how FASNA can improve its services to you, the *Forum*, or our website. Please contact us at [info@fasna.org](mailto:info@fasna.org).

All in all, it was a very successful meeting. The outcome of this meeting demonstrates FASNA's continuing efforts to be the first choice of insurance professionals and attorneys when it comes to financial analysis and loss determination for insurance claims and litigation matters.

# WHY (AND WHEN TO) USE A FASNA MEMBER FIRM?

by Steven B. Bishop, CPA, CVA, Benson & McLaughlin, P.S., FASNA member firm in Seattle

We are often asked why (or when) a claims manager, adjuster, or attorney should use a FASNA member firm. Like most things in life, it all comes down to a cost/benefit decision. As an insurance company claims professional, your intention is fast and objective handling of claims at a reasonable cost. As an attorney, either defending an insurance company, or representing a client in a matter involving financial matters (and don't they all), your objective is to do your best for your client and hopefully prevail in the litigation.

FASNA member firms have experienced forensic accountants at your disposal. Logically, you should use a FASNA member firm when the situation dictates that the benefits of such use outweigh the costs. So, let me address the cost issue first. FASNA is an affiliation of quality local CPA firms that have specialized training and experience in claims adjustment and litigation support. We bill by the hour and our rates differ by geographic area. Because we are not national firms, we do not carry the overhead they do. Quite often, our rates are less than half of the national firms. I remember one complicated litigation case three years ago where the CPA expert on the other side was billing \$450 per hour! So cost is an issue, but I believe you will find FASNA member firms are very competitively priced.

So, what are the benefits? In my experience they consist of the following:

- Expertise
- Experience
- Objectivity
- Efficiency

## **Expertise:**

All CPAs tend to possess a skill set that promotes analytical ability. It's the typical right brain stuff that accountants are known for. It is very important to note that not all CPAs are good forensic accountants. We use the term "forensic" to imply investigative analysis. Several additional skills become necessary. They are the ability to see the "big picture" while also being able to wade through the details of a claim or case. Communication skills take on a heightened role due to issuance of a written report and potential expert testimony. These are communications different than a traditional CPA is used to. Speaking of expert testimony, it's the same right brain personality that led us to become accountants in the first place. You know the mild, meek accountant? That type of personality would never be effective in a courtroom. A forensic CPA has to be confident, non-confrontational, and able to communicate complicated accounting issues to a layman. As noted above, FASNA is an affiliation of quality local CPA firms. To become a FASNA member firm, a CPA firm must undergo specialized training by an existing FASNA member firm. FASNA has also developed a complete list of the skill set necessary to be a

competent forensic CPA. Each FASNA member firm was highly screened to make sure they meet these requirements. When you select a FASNA member firm, you are assured of getting an expert forensic CPA.

## **Experience:**

All of the currently existing FASNA member firms have evaluated hundreds of claims and have been involved in complicated lawsuits. We have the experience to handle pretty much any claim or litigation.

## **Objectivity:**

We evaluate claims in accordance with the applicable coverage and proof of the claim submitted by the insured. We do not try to understate the damages for the insurance company. However, because the insured typically does not understand the applicable coverage, the initial claim is usually overstated. By engaging a FASNA member firm, the insurance company will receive a report on the appropriate amount due, no less, no more.

In litigation, we take the same objective role with one addition. We are able to evaluate the other side's position and/or arguments, and thus, help the attorney strengthen his or her case.

One other important benefit I have seen from past experience is the societal view of a CPA. Have you ever had a claim where the insured and the adjuster are no longer talking? When claims get to that point, engaging a FASNA member firm can have a calming effect and get the claim resolved. Despite being retained by the insurance company, we are viewed by the insured as an objective third party coming in to get the claim resolved. And that's just what we are and do.

## **Efficiency:**

Because of all of the above, we are able to evaluate claims and assist in litigation in a very efficient manner.

So now that you know why you should engage a FASNA member firm, let's address when you should get us involved. I see these issues:

- Dollars involved
- Nature of the claim or litigation
- Workload
- Relationship with the insured or "good faith" issues

## **Dollars involved:**

The importance of engaging a FASNA member firm rises as the dollars involved in the claim or litigation increase. Obviously for a \$2,000 claim it would not make sense to get us involved. As the stakes increase, so does the importance of getting quality forensic financial expertise to assist in your evaluation.

## **Nature of the claim or litigation:**

The nature of the claim or litigation can dictate whether a FASNA member firm should become involved. Typically, we are not

involved in straight-forward property loss claims. Approximately 80% of the claims we see are loss of business income with the balance being made up of employee dishonesty. Not all loss of business income cases are difficult. Consider engaging a FASNA member firm if the insured or injured third party is self employed, operates an S Corporation, partnership, or LLC entity structure, or appears complicated for some other reason. Especially consider engaging a FASNA member firm when the claim "just doesn't smell right". We have found that when something smells rotten, it probably is. In addition to looking at the claim support we can evaluate the insured or injured third party for financial motivation.

In litigation, I cannot overemphasize getting us involved early. Not only can we significantly aid in document requests and interrogatories, we can attend depositions to verify the answers you are getting right there make sense and develop any necessary follow-up questions.

## **Workload:**

Circumstances can put adjusters under extreme workload. The recent storms in Florida re-located many adjusters from the Pacific Northwest to that area to assist in the claims handling. Not only were those adjusters assigned heavy workloads because of the sheer number of claims, the workload of their counterparts left in the home area increased because of the short staffing. In these situations, engaging a FASNA member firm to simply handle some of the extra workload can reduce stress on the company adjusters and prevent the addition of staff when it is just a temporary increase.

## **Relationship with the insured or "good faith" issues:**

We have all seen the difficult insured. The last thing you want is an assertion that your company is not dealing in good faith or worse yet, a complaint to the insurance commissioner. Sometimes, irregardless of the cost, it makes sense to engage a FASNA member firm to resolve these claims. We approach all of the claims with the utmost respect for both the insured and the adjuster. Using tactful diplomacy and the knowledge of how society views CPAs, we can effectively get people to the table and finish the job.

I hope this helps address the question of why or when to engage a FASNA member firm. We are here to serve you. The significant number of insurance companies and attorneys that have engaged our services have made the judgment that the benefits we provide significantly outweigh the costs.

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# FASNA FORUM

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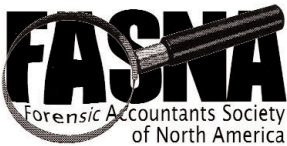
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