



Forensic Investigation: What you need to know to avoid being caught up in a SLAPP case

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Avoid Conscious Bias act Professionally

- Be aware of conscious Bias <https://www.youtube.com/watch?v=dVp9Z5k0dEE>
- Act Professionally and Ethically
- Follow some Basic Steps in Fraud Investigation

Outline

PART A:

- Aetiology of Fraud and Corruption

PART B

- Skills required to Detect Fraud and Corruption
- Skills required in Interviewing to gain evidence

PART C

- Maintain high ethical level of standards during the investigation and interviewing process

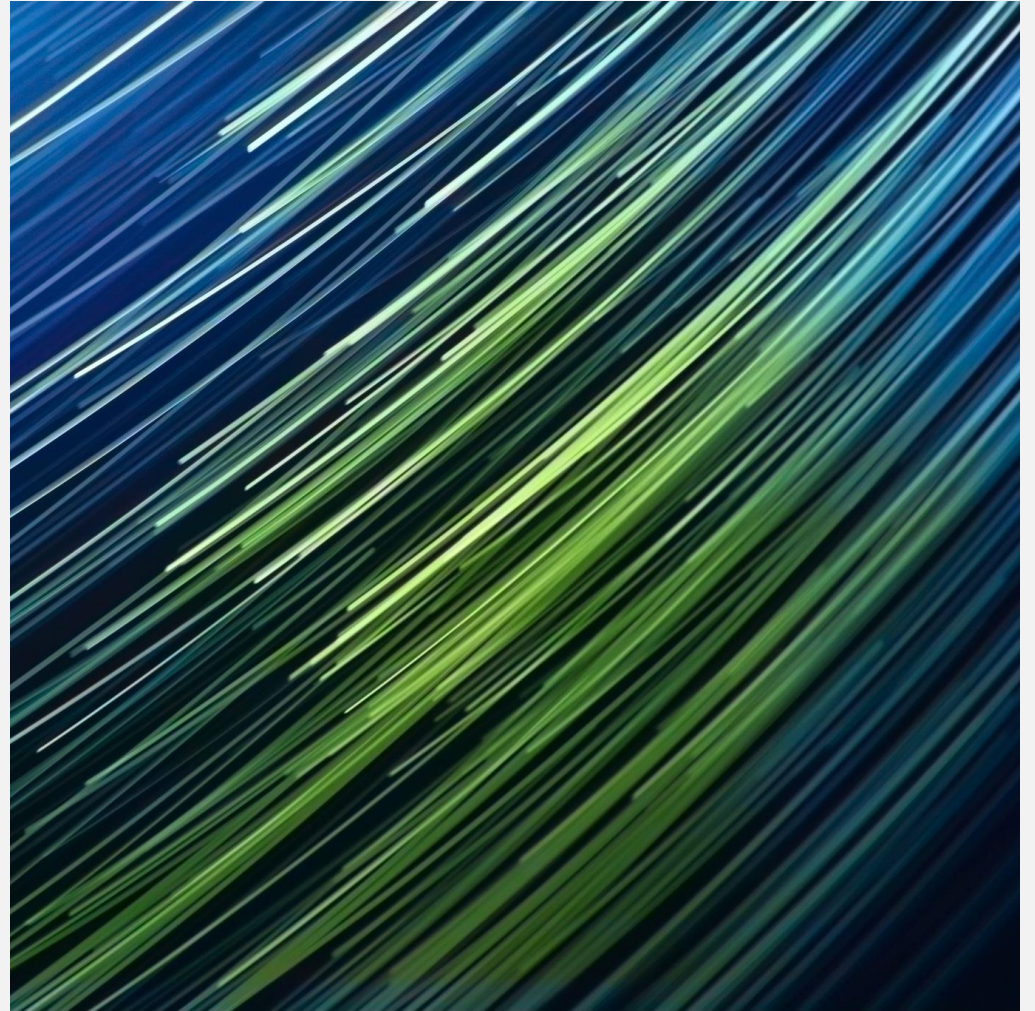
PART A

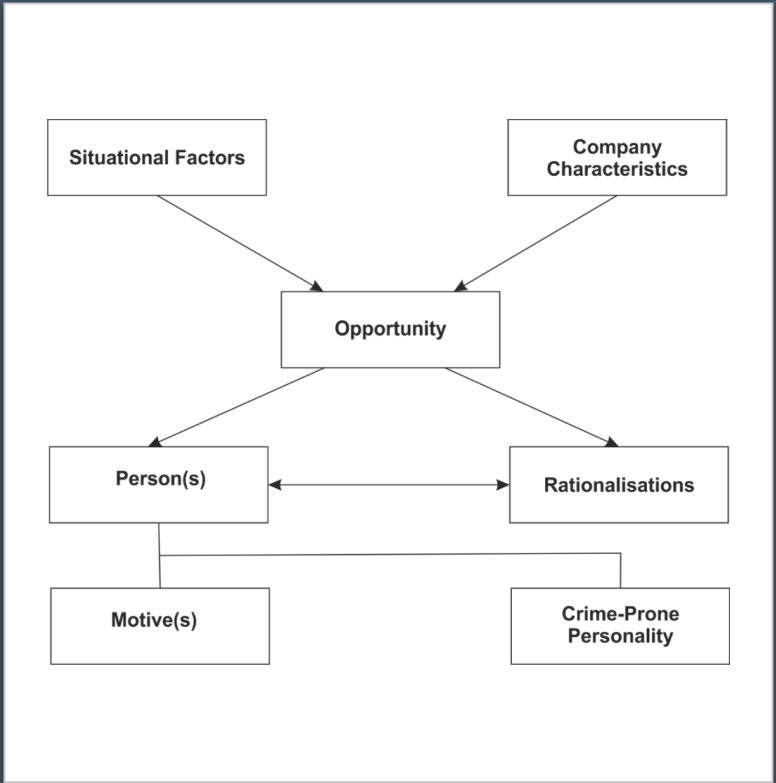
Fraud Triangle

Fraud Tree

Fraud and Corruption Schemes

Need Reliable Evidence to support
your claims and allegations





Fraud Triangle (1971), ROP Model (2001), Fraud Diamond (2004)

Pressure



Divided into four main groups:

- Financial pressures
- Vices
- Work-related pressures
- Other pressures

Approximately 95 percent of all frauds involve either financial or vice-related pressures

Pressure

- Vice Pressures
- Worse kind of pressures to commit fraud
- Examples include:
 - Gambling
 - Drugs
 - Alcohol
 - Expensive extramarital relationships



Pressure

- Vice Pressures
- Real-life examples:
 - Dad that stole from employer for his daughters' dowry
 - Women who stole money to fund her lover
 - Couple that had expansive/luxury car addiction
 - CEO who embezzled for personal gain
 - Megalomaniac doctor

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Pressure

- Work-Related Pressures
- “Get even with the employer”
- Motivated by these factors:
 - Getting little recognition
 - Feeling job dissatisfaction
 - Fear of losing one’s job
 - Being overlooked for a promotion
 - Feeling underpaid

Pressure

- Work-Related Pressures
- Real-life example:
 - The worker that worked 12-14 hour days, received a promotion, and accepted kickbacks to compensate for her “overworking.”



Pressure



Other Pressures

Spouse Pressures

Life Pressures

Social Pressures

- Spouse's lifestyle demands

- Family crisis

- "Being successful"/ challenges

Opportunity

- Six major factors that increase opportunity:
 1. Lack of controls
 2. Inability to judge performance quality
 3. Failure to discipline fraudsters
 4. Lack of access to information
 5. Ignorance, apathy and incapacity
 6. Lack of audit trail



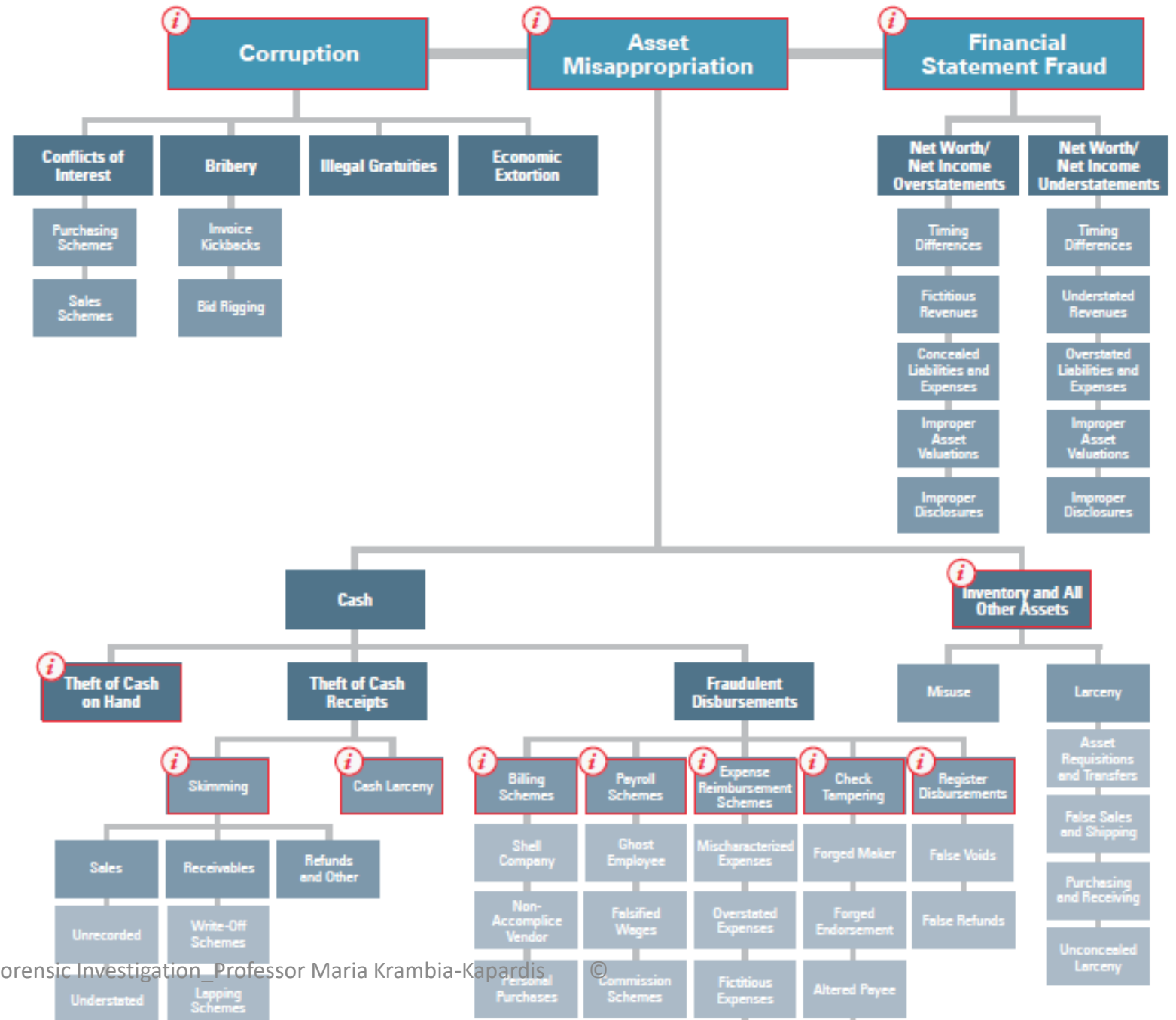
Person capable of committing fraud

- Criminogenic and Psychological Factors
 - Autocratic
 - Megalomaniac
 - Low self-control
 - Narcism character

Rationalization

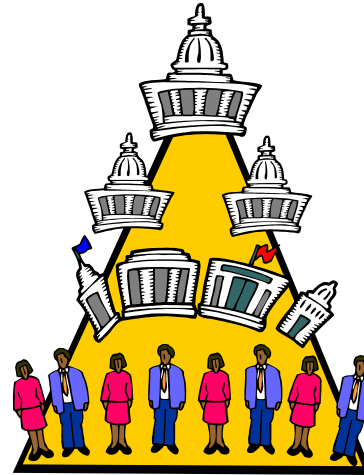
- Common rationalizations by perpetrators
 - I deserve more
 - I am only borrowing the money and will pay it back
 - Nobody will get hurt
 - It's for a good purpose
 - I pay more than my fair share of taxes
 - The government wastes money

Fraud Tree (ACFE)



- Fraud against an organization

- Fraud on behalf of or for an organization



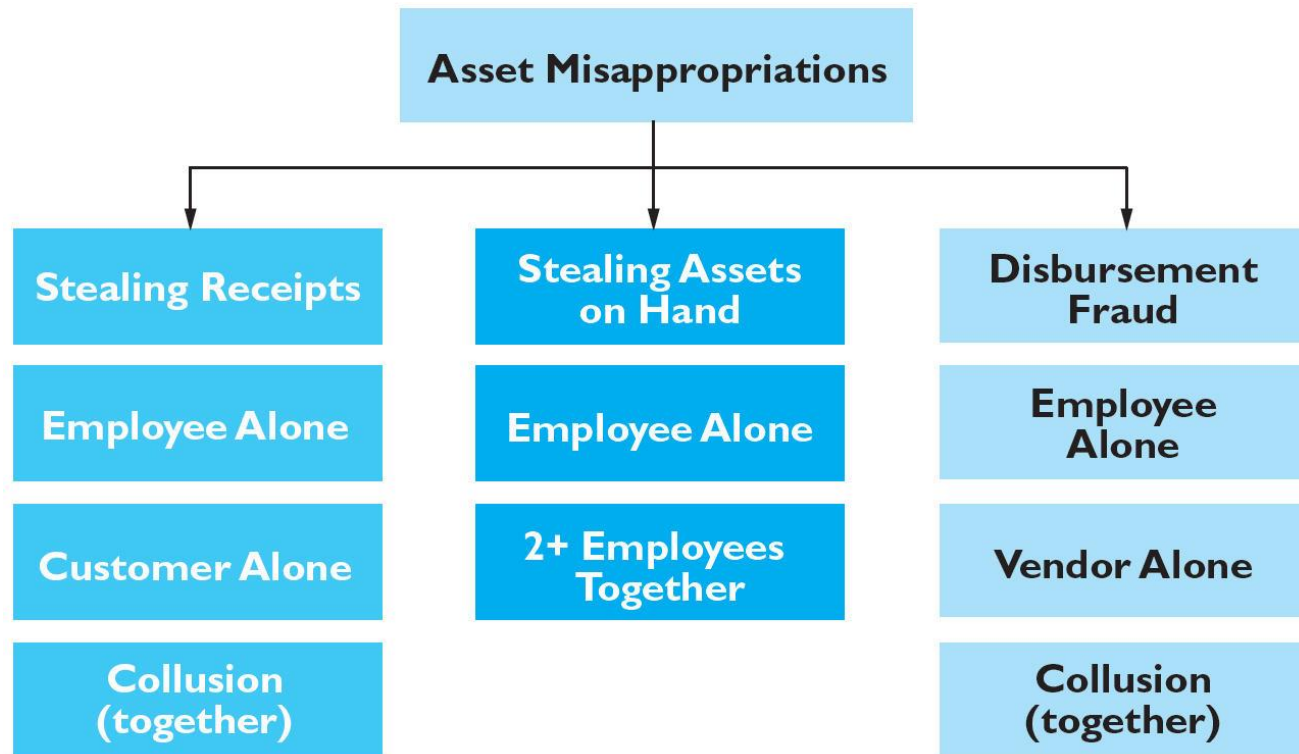
Complete this table

Types	Perpetrator	Victim	Modus Operandi
Employee Embezzlement			
Vendor Fraud			
Customer Fraud			
Management Fraud			
Investment Scams and other Commercial Frauds			

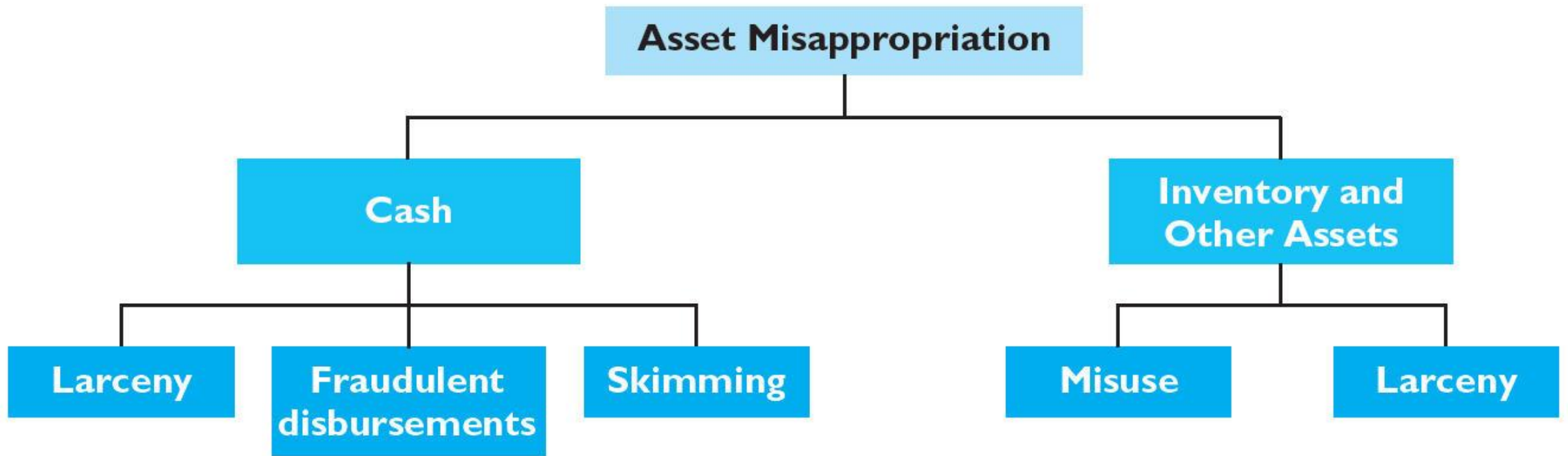
Differentiate between Criminal and Civil Responses to Fraud.

	Criminal Case	Civil Case
Purpose	To right a wrong by punishing the offender	To obtain a remedy
Consequences	Jail and/or fines	Restitution & Damages
Burden of Proof	“Beyond reasonable doubt”	“On the balance of probabilities ”
Organization	The case is brought to justice by a public prosecutor normally after the organisation has reported the offence and has collaborated in providing evidence	The organisation files a suit against the fraudster by a plaintiff
Charges/claims	Various charges my be joined in one action	Various claims my be joined in one action

Asset Misappropriations



Asset Misappropriations Further Divided





Asset Misappropriations

- **Fraudulent Disbursement Schemes**
 - Billing
 - Expense reimbursements
 - Check tampering
 - Payroll
 - Wire transfers
 - Cash Register disbursements



Asset Misappropriations

- **Billing**

- Any scheme where a person causes his or her employer to issue a payment by submitting invoices for fictitious goods or services, inflated invoices, or invoices for personal purchases.
- Employees who utilize billing schemes are just going where the money is.

Asset Misappropriations

- **Expense Reimbursements**

- Any scheme where an employee makes a claim for reimbursement of fictitious or inflated business expenses.
- Similar to billing schemes.
- Four common types of expense disbursement schemes are: mischaracterizing expenses, overstating expenses, submitting fictitious expenses, and submitting the same expenses multiple times.

Asset Misappropriations

Cheque Tampering

- Any scheme in which a person steals his or her employer's funds by forging or altering a cheque on one of the organization's bank accounts, or steals a cheque the organization has legitimately issued to another payee.



Asset Misappropriations

Payroll

- Any scheme in which an employee causes his or her employer to issue payment by making false claims for compensation.
- An example of a payroll fraud is the placing of a ghost employee on the payroll.
- Overpayment of wages

Asset Misappropriations

Wire Transfers

- Any scheme in which a person steals his or her employer's funds by fraudulently wire transferring the funds out of the employer's bank accounts.

Register disbursements

- Any scheme in which an employee makes false entries on a cash register to conceal the fraudulent removal of cash.
- The least costly of all disbursement schemes.

Asset Misappropriations

Theft of Inventory and Other Assets

Inventory

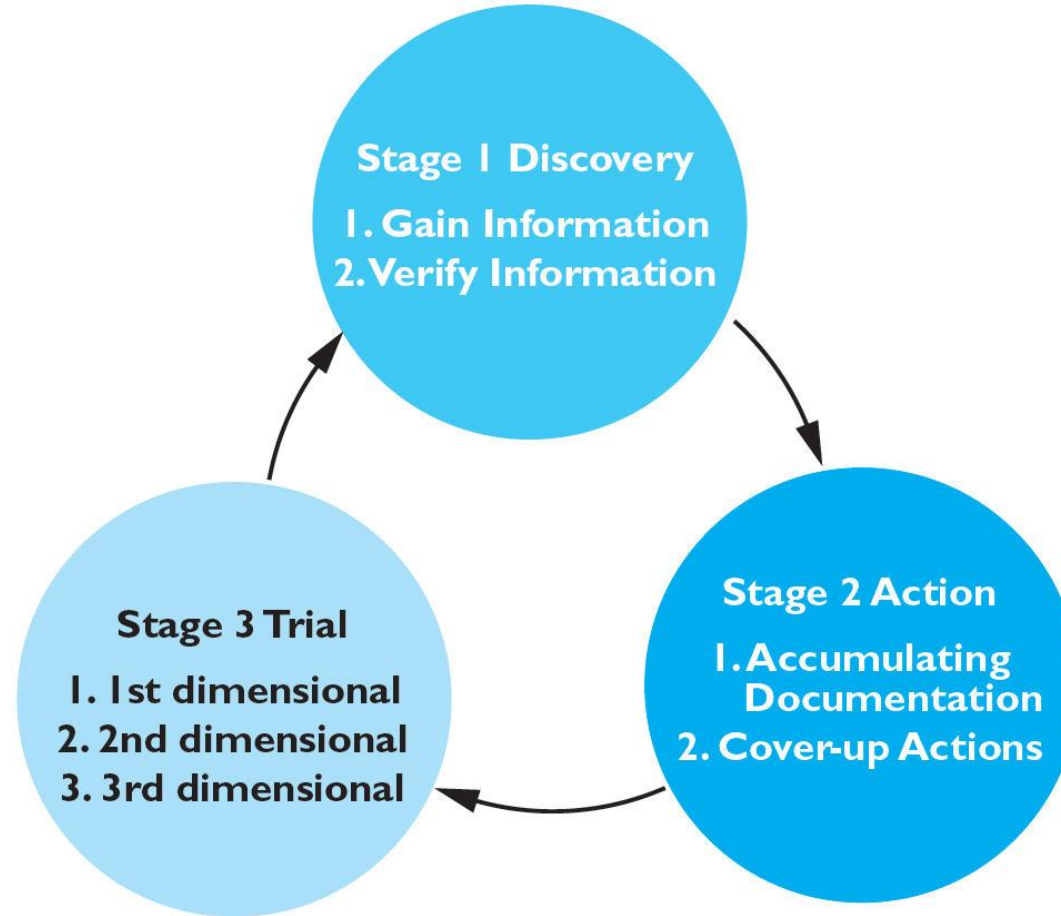
- Any scheme involving the theft or misappropriation of physical, noncash assets such as inventory, equipment, or supplies.

Theft of Inventory and Other Assets

Securities

- Any scheme involving the theft or misappropriation of stocks, bonds, or other securities.

Identity Theft Cycle



Identity Theft

How Identity Theft Occurs

Stage 1: Discovery

Gain Information Phase:

- Searching trash
- Stealing mail
- Phishing
- Scanning credit card information

Information Verification Phase:

- Telephone scams (Pretexting)
- Trash searches

Identity Theft

Stage 2: Action

Accumulating Documentation Phase:

- Perpetrator gets the tools to commit the fraud (applying for credit cards, a driver's license, or fake check in the victim's name)

Cover-up or Concealment Actions Phase:

- Perpetrator takes steps to cover or hide the financial footprints left throughout the identity theft process.
- Example: Changing the billing address on a credit card so that the statements go to the fraudster's address.

Identity Theft

Stage 3: Trial

1st Dimensional Actions Phase:

- First attempts to test the stolen information.
- If the test works, the fraudster attempts more

2nd Dimensional Actions Phase:

- Actions taken after the tests are successful
- The fraudster usually attempts face-to-face transactions

3rd Dimensional Actions Phase:

- Fraudster opens bank accounts, establishes phone accounts, secures auto loans, etc.

Identity Theft

Personal Information → Financial Gain

The perpetrator may...

- Buy large-ticket items
- Take out car, home, or other loans
- Establish phone or wireless services
- Use counterfeit checks or debit cards
- Open new bank accounts
- File for bankruptcy
- Report victim's name to police
- Open new credit card accounts
- Change victim's mailing address

Identity Theft

Stealing a Victim's Identity

- Dumpster diving
- Skimming
- Social engineering
- Stealing wallets/purses
- Sneak into a victim's home and steal information
- Shoulder surfing
- Phishing
- Steal mail



Identity Theft

Minimizing the Risk

- Guard your mail from theft
- Opt out of preapproved credit cards
- Check your personal credit information at least annually
- Guard Social Security card and number
- Safeguard all personal information
- Guard trash from theft
- Protect wallet and other valuables
- Protect the home, computer, passwords

Identity Theft

- **Prosecution of Identity Theft**

- When identity theft is committed, the perpetrator can be prosecuted criminally and/or civilly.
- For prosecution, it is necessary to show the perpetrator acted with intent to defraud—usually easy to prove if evidence of the fake identity used to purchase an item, open an account, or obtain a credit card is collected.



Consumer & Investment Scams

Subject: PLS ASSIST A WIDOW
Date: Fri, 06 Aug 2004 14:38:44 +0200
From: maryam_abacha13@virgilio.it
To: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

DEAR Sir, Madam.

I am Hajia Maryam Abacha, Widow of the Late Gen. Sani Abacha former Nigerian Military Head of State who died as a result of cardiac arrest. The name of your company appeared in one of our directories as one of the companies my Late Husband wanted to do business with before he died. I therefore decided to contact you in confidence so that I can be able to move out the sum of US \$35,750,000.00 (Thirty Five Million Seven Hundred and Fifty Thousand U.S Dollars) which was secretly defaced and sealed in big metal box for security reasons in your account.

I personally therefore appeal to you for your urgent assistance to move this money into your country where I believe it will be safe since I cannot leave the country due to the restriction of movement imposed on me and members of my family by the Nigerian Government. You can contact me or my family lawyer.

Upon the receipt of your acceptance to assist me, my lawyer shall arrange with you for a face-to-face meeting outside Nigeria in order to liaise with him towards the effective completion of this transaction. However, arrangement has been put in place to move this money out of the country in batches in a secret vault through a diplomatic security company to any European Country as soon as you indicate your interest.

I also want you to be assured that all necessary arrangement for the hitch-free of this transaction has been concluded. Conclusively, I have decided to offer you 25% of the total sum 5% will be for whatever expenses that will be incurred, while 70% is to be used in buying shares in your company subsequent to our free movement by the Nigerian Government.

Please reply.
Best regards,
HAJIA MABACHA

Consumer & Investment Scams

Telemarketing Frauds

- Fraudsters set up giant rooms (referred to as boiler rooms) in rented offices where they train salespeople to find and defraud victims
- Move from city to city using different names
- Unwary investors lose about \$1 million every hour to investment fraud promoted over the telephone
- Elderly are more susceptible to telemarketing fraud than almost any other type of fraud.

Investment/Consumer Scams

Investment Scams

- Unreasonable promised rates of return
- Investments that do not make sound business sense
- Pressure to get in early on the investment
- Use of a special tax loophole or a tax avoidance scheme
- A business with a history of bankruptcy or scandals

Divorce Fraud

- **Most divorce fraud litigation results from two allegations:**
 - The plaintiff spouse claims that the defendant hid assets so they would not have to be shared or taken away
 - or
 - The values assigned to assets were unrealistically low, thus resulting in an unfair divorce settlement.

Bankruptcy Fraud

- This type of fraud is critical because of the impact bankruptcy filings have on the creditors, in this case you the banker.
- Monies defrauded from a bankruptcy never reach the pockets of deserving creditors and investors.
- The loss of faith in the legal process (bankruptcy) by creditors and investors can have a ripple effect in the economy through the tightening of credit, the raising of interest rates and subsequent economic reactions.

Bankruptcy & Divorce Schemes

- Two most common bankruptcy fraud schemes are: bust-out and the fraudulent concealment of assets during, or in contemplation of, a bankruptcy.
- Bust-out may take several forms, but essentially involves intentionally obtaining loans or purchasing inventory on a credit basis and concealing, or absconding with, the proceeds from the loan or sale of the inventory or with the inventory itself before creditors are paid.



**FAKE
SCAM
FRAUD
RIP-OFF**



**INSURANCE
FRAUD**



PONZI SCHEMES

IF IT'S TOO GOOD TO BE TRUE

IT USUALLY IS



Image: Wikipedia

The schemes are named after Charles Ponzi, who duped thousands of Americans into investing in a postage stamp scheme in the 1920s.

What is a Ponzi Scheme?



An investment scheme that lures new investors by offering unusually high payouts.



Older investors get payouts from new investors, rather than from profits earned.



The scheme collapses and everyone loses their money when it becomes difficult to lure new investors, a number of investors cash out, or the promoter runs off with the money.



Investors receive payouts and encourage other investors to invest or invest more themselves.

HOW TO SPOT A SCHEME

Compare the scheme's interest rate to the country's official rate (Repo Rate).

5% - 6%

Average interest rate in a country

VS



30%

Unusually high rate

Don't be comforted if the scheme has paid out regularly to family and friends.



"My husband did not want to invest initially, because he was very conservative. The monthly statements showed very impressive growth. This convinced us to use some of our other investments to live off." *Ponzi victim*

WHAT TO ASK BEFORE INVESTING



How long have you been in the investment business?
What are your qualifications?



Do they require me to introduce other investors?

"We heard about it from friends, they all invested and received great returns. All our friends and family were invested and now have nothing to live off." *Ponzi victim*

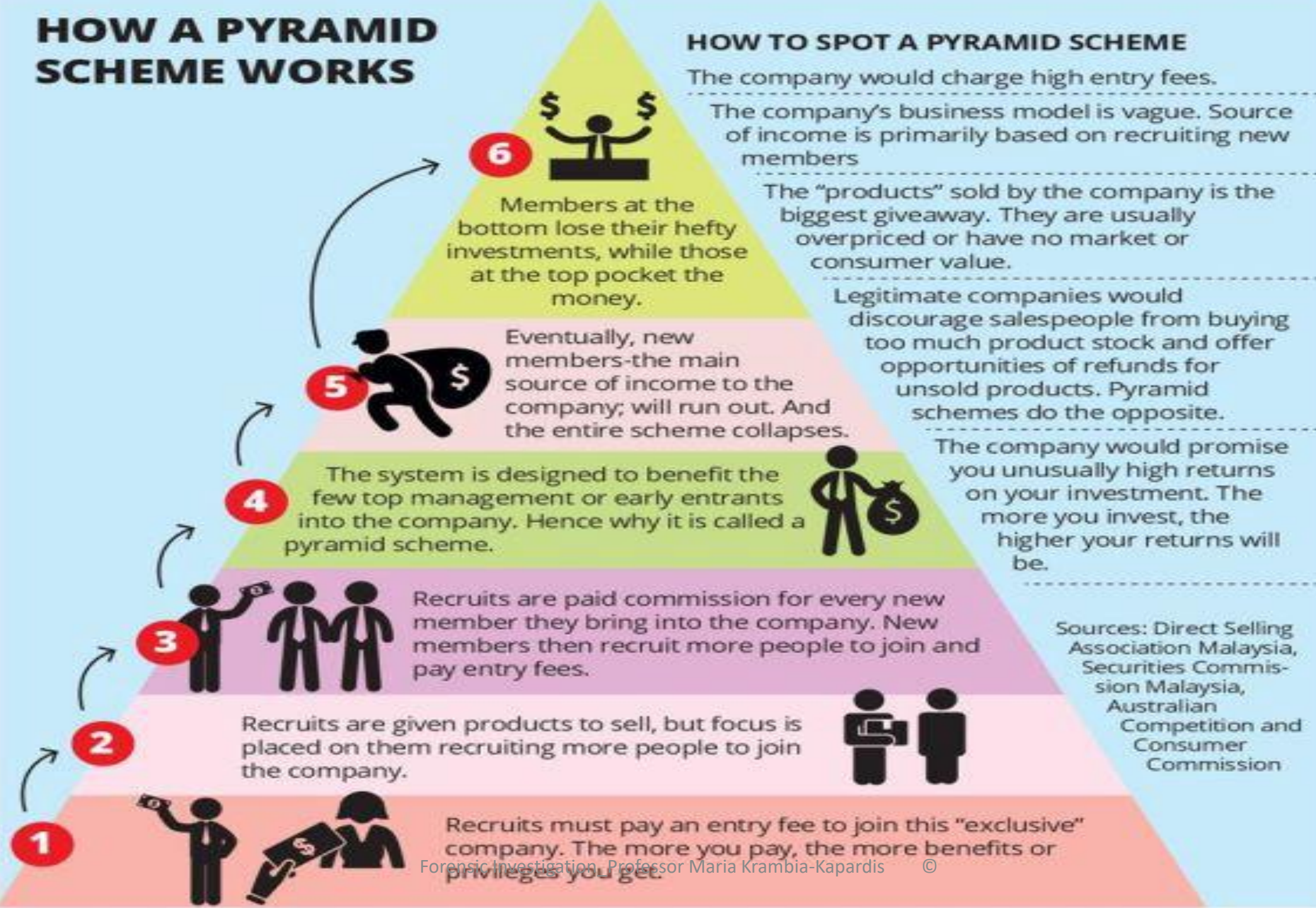


Are you registered with the Financial Services Board?
Can you show the proof?



★ Trust your instincts!

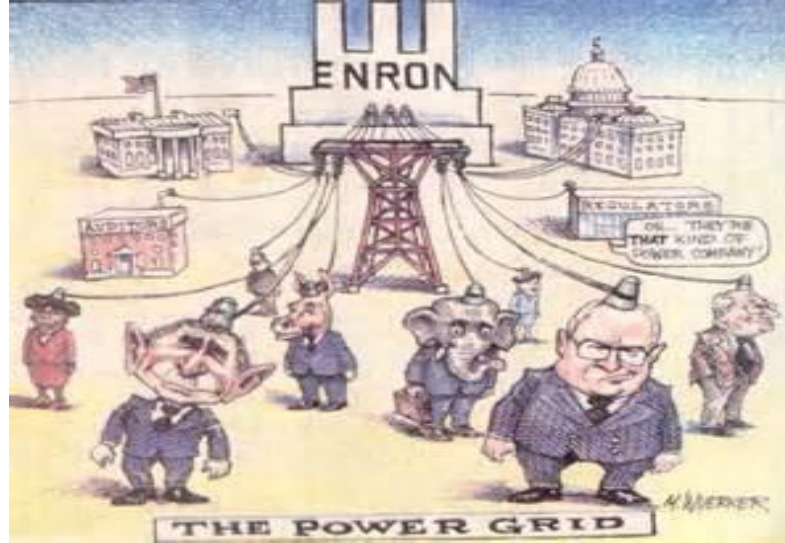
HOW A PYRAMID SCHEME WORKS



Money Laundering



Mega Fraud Cases



Examples of Accounting Misstatements

- Overstate Stock
- Overstate Fixed Assets
- Overstate Bank
- Understate Liabilities
- Understate Expenses
- Overstate Income
- Understate Income to pay less taxation

Other Misstatements

- Payroll fraud- dummy employees/ salami method
- Create suppliers
- Lapping



What is Lapping?

Lapping is Illegal

- Sales clerk steals first customer's payment**
- He uses 2nd customer's payment to offset first**
- He uses 3rd customer's payment to offset 2nd.**

Stealing cash from one customer's payment & using the next customer's payment to offset that stolen money ... and so on.

Third Party Fraud

- Insurance Fraud
- Industrial Espionage- latest type of scheme for companies
- Nigeria/email schemes



Corruption

Definition

- Any scheme in which a person uses his or her influence in a business transaction to obtain an unauthorized benefit contrary to that person's duty to his or her employer.

Other Corruption Practices

- Conflict of Interest
- Lobbying
- Revolving Door
- Government Connections for Personal Gain

Corruption and organized corruption



corruption

- Conflict of interest, nepotism, lack of meritocracy breed corruption
- Bribery, Extortion, illegal gratuity
- Political Corruption
- State capture

Organised/ Grand Corruption

- When the elite, politicians or technocrats pass legislations or change procedures to benefit them and then they abuse the system through bribery, nepotism, corrupt practices to enrich themselves. I.e. High level corruption

Part B



FORENSIC
ACCOUNTING



FORENSIC PSYCHOLOGY



INTERVIEWING SKILLS

Forensic Investigation

- Journalists, activists, academics, NGOs, lawyers need to go deeper into investigation to identify reliable evidence that would stand up in court
- They need forensic investigation skills
 - Forensic Accounting
 - Forensic Psychology



Forensic Psychology

- Profiling Fraud Offenders
- Using Theories from Criminology, Psychology, Legal Psychology to identify who is likely to be the suspect and why he/she carried out the illegal act.

Offender Profiling methods

- Diagnostic Evaluation
- Criminal investigation analysis
- Crime Action Profiling
- Investigative Psychology
- Geographic Profiling
- Latent Class Analysis

Developments in offender profiling

- Moved from early criminal investigative analysis to more evidence-based approach and into mainstream forensic psychology.
- Recognised profession in the UK- Behavioural Investigative Adviser
- Role of a BIA

Characteristics of white-collar criminals

- No such thing as a typical fraud offender
- Duffield and Grabosky (2001) pointed out a) certain psychological factors are common to different frauds while others are unique to specific types of fraud (2001:3) and (b) the psychological factors that differentiate one type of fraud offence from another may also distinguish one type of fraud offender from another



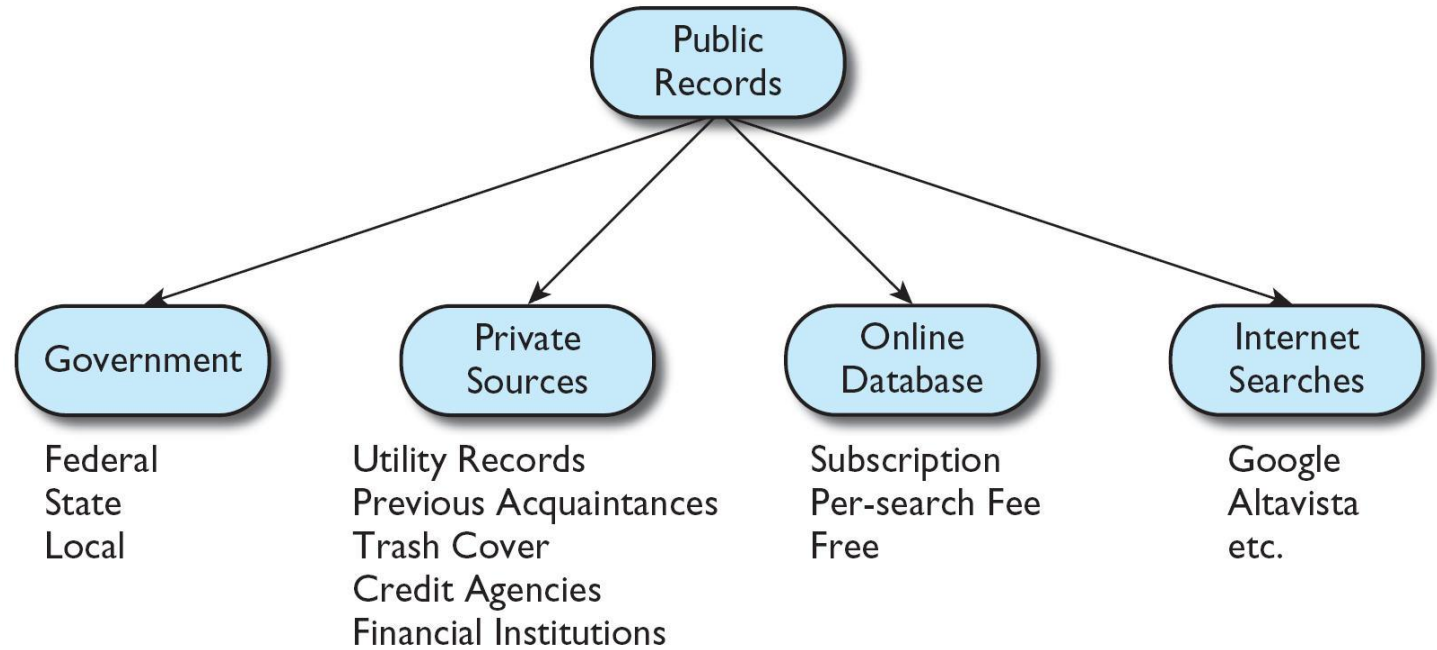
Forensic Investigation



Conversion Searches

- Information can be gleaned from:
- Government (central and local) and other organizations
- private sources of information
- online sources of information
- using the net worth method of analyzing spending information

Conversion Searches



Public Records

- Birth, Death, Marriage Records
- Professional Associations
- Land Registry
- Criminal Records
- Universities
- Commercial Databases
- Phone Directories
- Social Media
- Who is who
- Company Registry



Private Records

- Office Computer
- Access to Work Email Account
- Office Desk
- Rubbish in Bin

Government Sources of Information

- Government Sources
 - Ministry of Defense
 - maintains records on all military personnel, both active and inactive
 - Ministry of Justice/Police
 - maintains records related to the detection, prosecution, and rehabilitation of offenders
 - Prison
 - maintains records on those who have been detained in various facilities.

Private Sources of Information

- Utility records (gas, electric, water, garbage, and sewer)
- Previous Acquaintances
- “Trashing”
- Shredded documents
- Original files on computers

Private Sources of Information

- Credit reporting companies maintain:
- *Consumer information, such as addresses, ages, family members, and incomes*
- *Account information, such as payment schedules, items purchased, and buying habits*
- *Marketing information, such as customer breakdowns by age, sex, and income levels*
- *Information on current and former employees*



Online Databases

- *Accurint*
- *AutoTrackXP*
- *Black Book Online*
- *ChoicePoint*
- *EBSCO Publishing*
- *PublicData*
- *Public Record Finder*
- *SEC's EDGAR Database*
- *Web Detective*

Internet Search

- The publicly available Internet is an increasingly valuable source of information.
- Google
- Chrome
- AltaVista
- Yahoo!
- - These engines index a significant amount of the public Web.

Internet Search

- Searching Methods:
 - Search by phrase
 - Search terms
 - Domain restrictions



Internet Search

- Google Search Tools:
- Google groups
- Cached results
- Google News
- Google Images
- Google Earth

The Net Worth Method

- $\text{Assets} - \text{Liabilities} = \text{Net Worth}$
- $\text{Net Worth} - \text{Prior Year's Net Worth} = \text{Net Worth Increase}$
- $\text{Net Worth Increase} + \text{Living Expense} = \text{Income}$
- $\text{Income} - \text{Funds from Known Sources} = \text{Funds from Unknown Sources}$

Analyse documents

- Gather evidence but can help or hurt a case
- Evidence must be relevant and material
- Rules for collection of documents
- Chain custody of evidence
- Obtain evidence by consent (orally or **written**)
- May require legal action, eg subpoena, to obtain evidence

Evidence

- Direct or Circumstantial
- Organisation of Evidence
- Chronologies
- To do lists

Conducting an Interview

- **Interviewer's Demeanor**
 - Establish good rapport
 - Ask a couple of easy-to-satisfy small favours from the interviewee before formally starting
 - Be efficient, courteous, polite, and careful with language used during interviews
 - Do not talk down to the person
- **Language of Interviews**
 - Use short questions, confined to one topic, which can be clearly and easily understood.
 - Maintain full control of the interview
 - Conversation management is essential.

Conducting an Interview

- Question Typology
- Interviewers ask **five types of questions**:
 - Introductory
 - Informational
 - Assessment
 - Closing
 - Admission-seeking



Conducting an Interview

- Elements of Conversation
- **Basic Elements of effective conversation:**
 - Expression
 - Persuasion
 - Therapy
 - Ritual
 - Information Exchange

Conducting an Interview

- **Inhibitors of Communication**

- Competing Demands for Time
- Threatened Egos
- Etiquette
- Trauma
- Forgetting
- Chronological Confusion
- Inferential Confusion
- Unconscious Behavior



Conducting an Interview

- **Facilitators of Communication**
 - Fulfilling Expectations
 - Recognition
 - Altruistic Appeals
 - Sympathetic Understanding
 - New Experience
 - Catharsis
 - Need for Meaning
 - Extrinsic Rewards

Mechanics of the Interview

- **Methodology**
 - Make Physical Contact
 - Establish the Purpose of the Interview
 - Don't Interview More than One Person at a Time
 - Conduct the Interview in Private
 - Ask Nonsensitive Questions
 - Get a Commitment for Assistance
 - Establish a Transitional Statement
 - Seek Continuous Agreement
 - Do Not Invade Body Space

Mechanics of the Interview

- **Question Sequence**

- Questioning should proceed from the general to the specific; that is, seek general information before details are sought

- **Note Taking**

- Procedure is especially helpful should documents from a particular interview be compelled.

Mechanics of the Interview

- **Observing Respondent Reactions**

- Must be knowledgeable about respondents' behavior during interviews.

- **Theme Development**

- Be sure to formulate your questions in a way that does not elicit strong emotional reactions.

- **Transition Methodology**

- Once the introduction has been completed, transition to the body of the interview.

Norming and Calibrating

- Use senses to establish a norm.
- Do not stare or call attention to the person's behaviour.
- Be aware of the respondent's entire body.
- Observe the timing and consistency of behaviour.
- Note clusters of behaviours.

Timing

- Refrain from asking the next question until:
- The individual has exhausted all the information he is going to provide.
- The interviewer has had the opportunity to prod the individual with comments such as “What else?” or “Go on.”

“Tell Me What Happened”

- Spend a minimal amount of time talking, no more than 15 percent.
- Allow the subject the opportunity to answer without interruption.
- Allow a few moments of silence between questions or predicates.
- Consider who can confirm the information.
- Encourage the subject to speak

Note-Taking

- Obtain biographical data and contact information for the subject.
- Initial and date the notes.
- Document the interviewer's questions.
- Take adequate notes, after the interview, to allow you to prepare the report.

Dealing with Resistance and difficult people

- 65% of respondents will refuse an interview if contacted first by telephone
- 33% will refuse if contacted first by person.
- How do you deal with difficult people?

Mechanics of the Interview

- **Volatile Interviews**
 - Typically involve close friends and relatives of suspects, co-conspirators, and similar individuals.



Important points

- Tough guys don't get confessions
- Do your homework before the interview
- Know as much as you can about the suspect before the interview (religion, what do they care about, family, reputation, what makes them tick)
- Have a plan and be confident
- Rehearse if you have to
- Small talk on way to interview room
- What do you do if you have 50 suspects and 1 day?- ask 5 questions



Interview Room

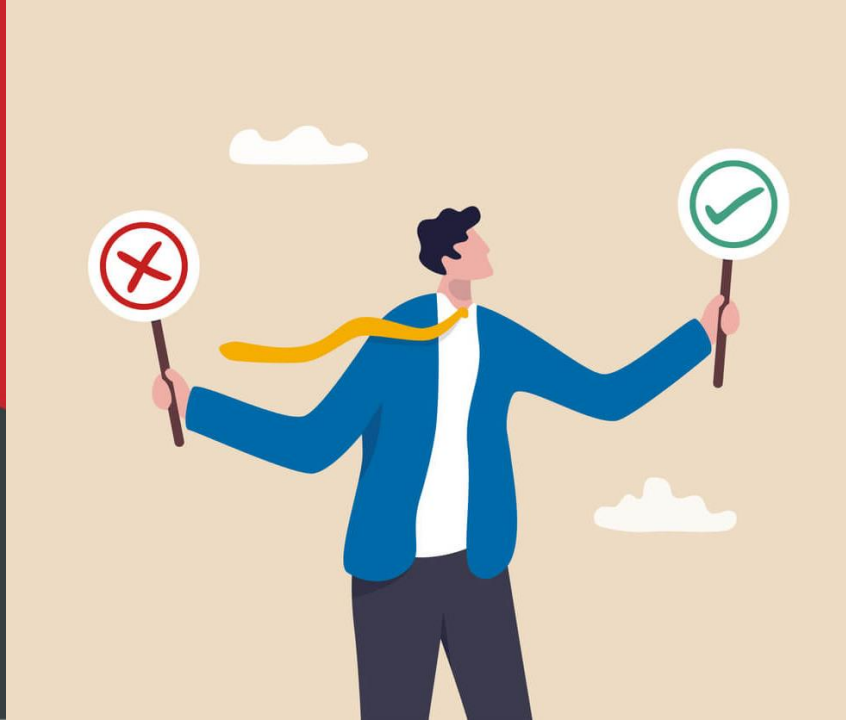
- No windows
- Small
- Two chairs
- No posters
- No signs
- Quiet
- Small glass window in door if you **MUST** be interrupted

Interruptions

- Interruptions set you BACK
- They come at the worst time
- Establish a rapport
- Establish empathy
- Can't do that with interruptions

PEACE INTERVIEW MODEL

- Method used since 1992 In England
- **P**lanning and preparation;
- **E**ngage and **E**xplain;
- **A**ccount and Clarification;
- **C**losure and **E**valuation.



**BASICALLY
JUST
DON'T
BE
A JERK**

PART C

Maintain high ethical standards when investigating

Ethical considerations to consider when investigating

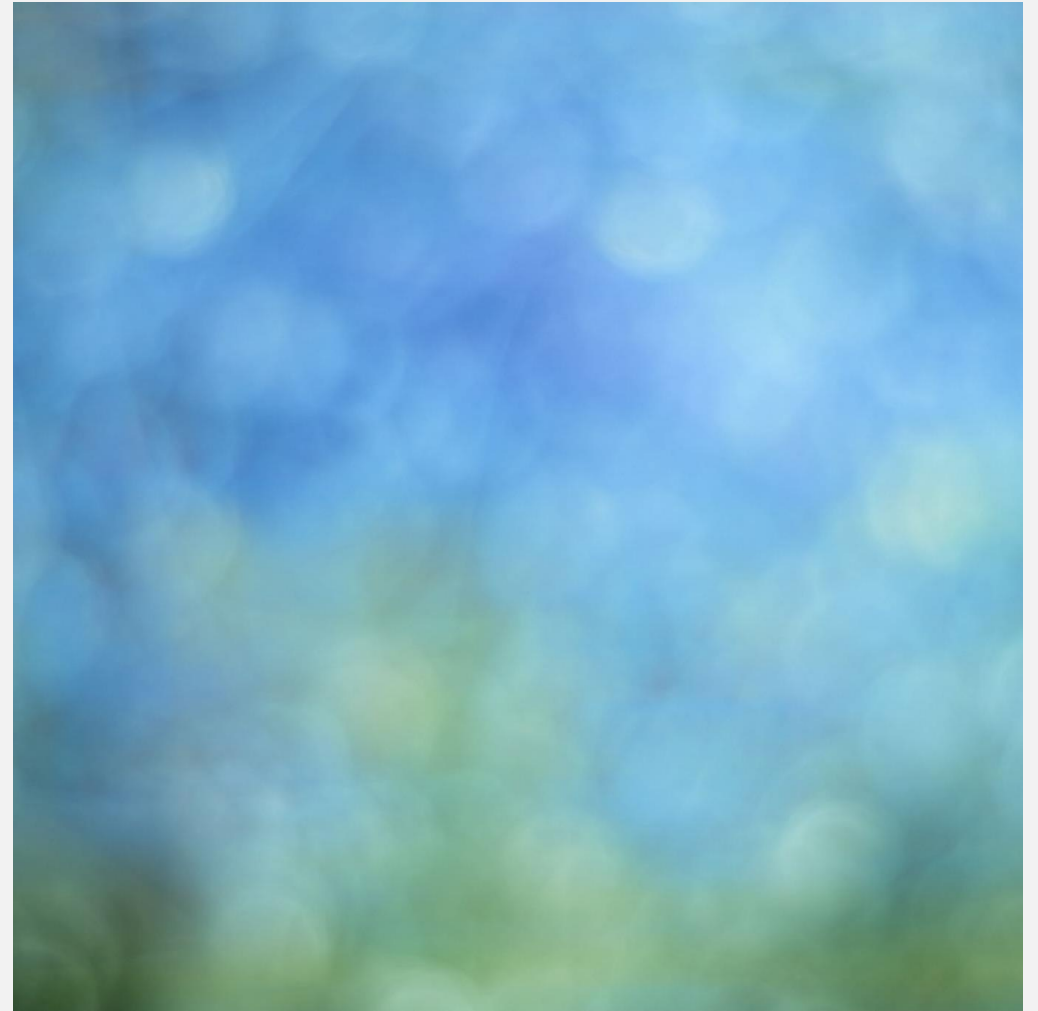
Using covert or accomplice informants

Accessing private material

Do not use unethical behaviour

Reveal all material matters

Avoid stating an opinion on the guilt or innocence of any person



Evaluating the fairness of a procedure

Representativeness

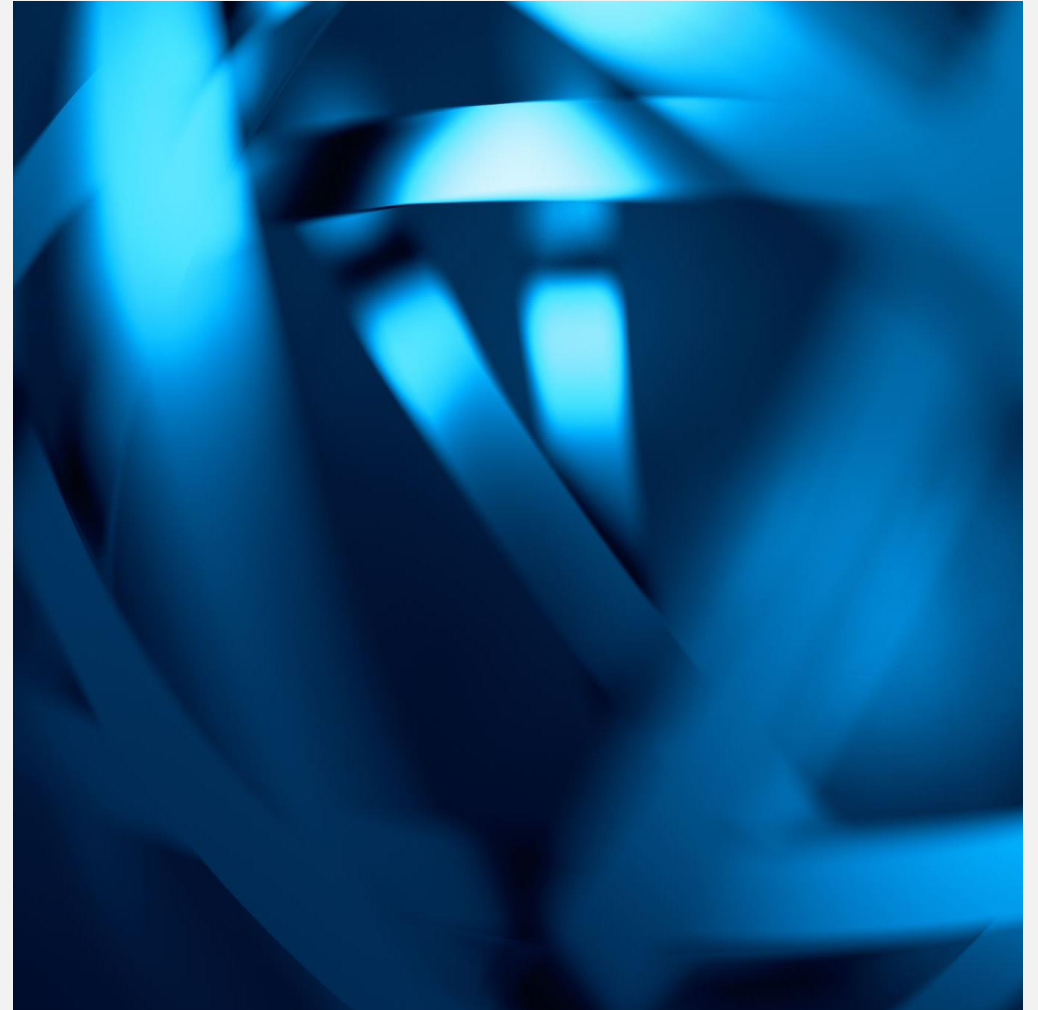
Consistency

Suppression of bias

Accuracy

Correctability

Ethically



Ethical Culture

- Establish standards
- Reasonable oversight with respect to implementation and effectiveness of the compliance and ethics program
- Designate an ethics officers in your organisation
- Promote a compliance and ethics program
- Monitor the ethics program
- Hire ethical employees
- Give incentives

Consider using Professional Ethical Standards (e.g. ACFE)

Commitment to professionalism

Illegal or unethical conduct

Professional competence of assignments

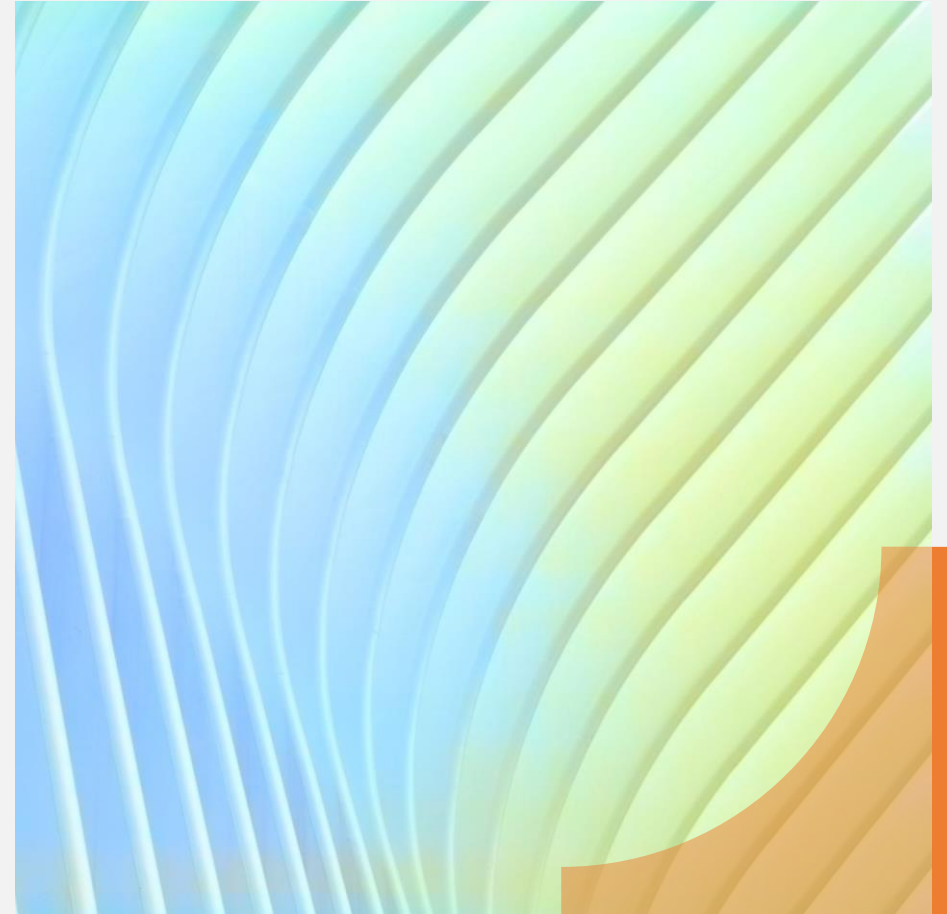
Lawful orders of the courts

Basis for opinions

Confidential information

Reveal material matters

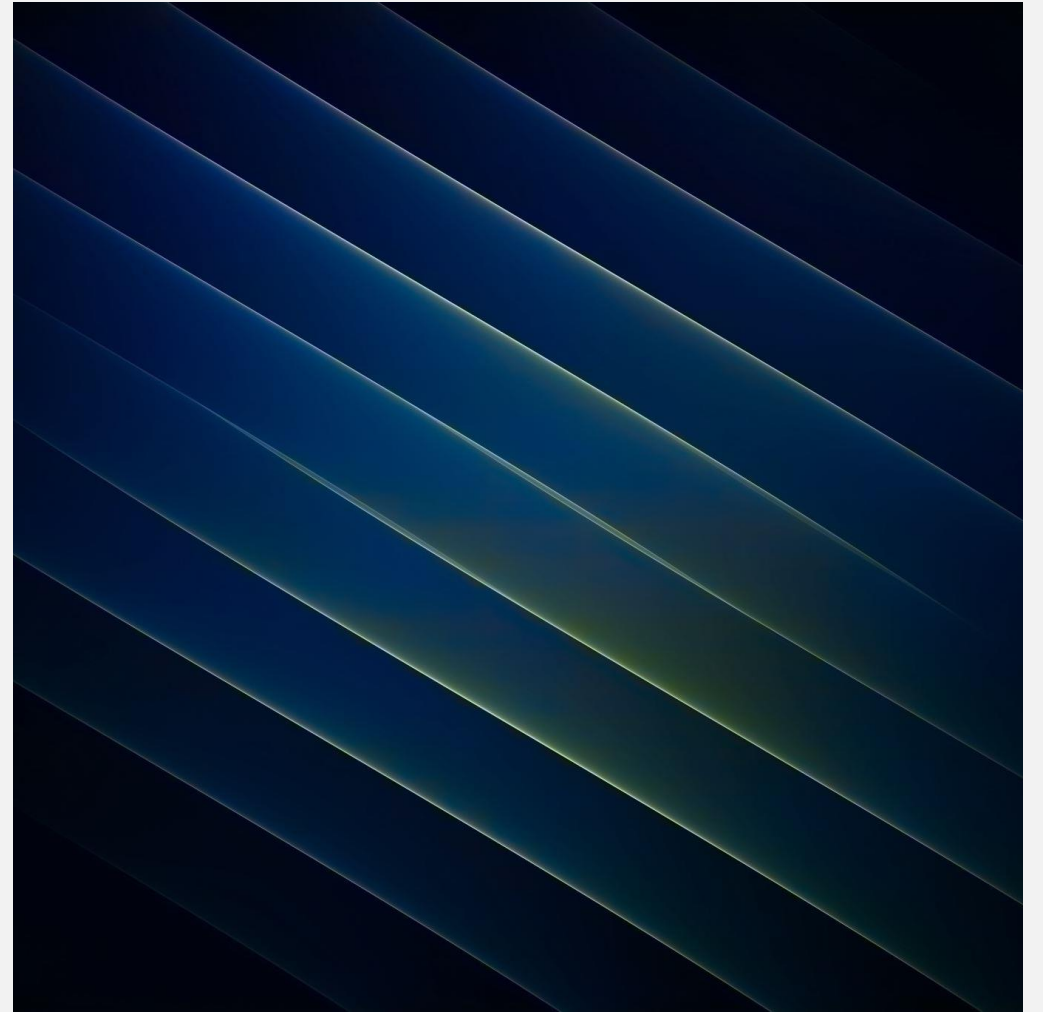
Increase professional competence



Prudence

When do you dispel professional scepticism?

Do not offer opinion or attestation about a fraud-related environment



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Thank You

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