



# LANSING CHAPTER OF THE ASSOCIATION OF CERTIFIED FRAUD EXAMINERS

## Board Member Address

Hello LACFE Members and Fraud Fighters!

Twenty-two of us lucky members spent the day with Bethmara Kessler last Thursday, October 25<sup>th</sup>! Fraud Risk Management was our topic and anyone who has met Bethmara knows she is very experienced in the CFE Fraud Fighting World.

Bethmara gets excited about teaching what she loves. You can see it in her demeanor when she is speaking. Her experience/career spans over 30 years and includes companies such as, EY, Avon, Warner Music, Nabisco and more. So, believe me when I say she has some great fraud stories!

We completed a practical problem during the session, determining inherent risk and then analyzing the risk in a matrix based on likelihood and impact. In our conference handouts there were pages and pages of specific anti-fraud controls that were laid out for us to use. As well as several appendices full of information. Several of the attendees have been in the fraud line of work for less than 5 years. The examples, stories, tips, and resources we were given will be invaluable.

We will have another conference coming up in mid to late February, so don't miss out on sharing your experiences and knowledge with the next speaker and your fellow Chapter Members. We'll see you then!

### **Melanie Marks**

LACFE Chapter Board Secretary

## IN THIS ISSUE

**Board Member Address**

**Fraud Talk Podcast – The State of Compliance in 2018**

**Upcoming Events**

**In The News**

**The Billion-Dollar Question: Where Corp Fines & Penalties Go?**



## Fraud Talk Podcast

### The State of Compliance in 2018

In this episode, Andi McNeal, CFE, CPA, ACFE Research Director, speaks with compliance evangelist Tom Fox to discuss his newly published book, The Compliance Handbook, and the most effective ways companies can improve their compliance programs. This podcast is a product of the ACFE and may be downloaded at

[https://acfe.podbean.com/mf/play/hr3wei/The\\_State\\_of\\_Compliance\\_in\\_2018 - Thomas Fox - ACFE Fraud Talk - Episode 73.mp3](https://acfe.podbean.com/mf/play/hr3wei/The_State_of_Compliance_in_2018_-_Thomas_Fox_-_ACFE_Fraud_Talk_-_Episode_73.mp3)

## UPCOMING EVENTS

---

### **LOCAL:**

#### **Michigan Chamber of Commerce: Properly Document Employee Discipline**

November 08, 2018

Seminar - 1:00 p.m. to 4:00 p.m. Michigan Chamber of Commerce, Lansing

Learn More at <https://www.michamber.com/effective-manager-training>



#### **Michigan Tax & Accounting Professionals: 2018 GEAR UP 1040**

November 12-13, 2018

Seminar – 8:00 a.m. to 4:00 p.m. Sheraton Hotel, Novi

Learn More at <http://www.viethconsulting.com/Calendar/moreinfo.php?eventid=47702>

#### **AGA Greater Lansing Chapter Ethics Webinar**

November 28, 2018 – Williams Auditorium, Lansing

Webinar - 2:00 p.m. to 3:50 p.m.

Learn More at <https://www.lansing-aga.org/EventCalendar>

### ***Lansing Chapter of the ACFE – Winter Fraud Conference***

*February 2018*

### **NATIONAL:**

#### **AICPA Forensic & Valuation Services Conference**

November 05-07, 2018

Atlanta, GA

Learn More at <https://www.aicpastore.com/ForensicValuationandLitigationServices/aicpa-forensic---valuation-services-conference/PRDOVR~PC-FVC/PC-FVC.jsp>

#### **Smarter Investigations with Enhanced Analytics**

November 06, 2018 2:00 pm to 3:00 pm

Online Webinar

Learn More at <http://www.acfe.com/webinar-sponsored.aspx?id=4295003587>

#### **Investigating on the Internet**

November 15-16, 2018

Los Angeles, CA

Learn More at <http://www.acfe.com/events.aspx?id=4295000667>

*If you have an event that you would like posted in our newsletter or if you wish to share an article, please contact Melanie Marks at [lacfemrmarks@gmail.com](mailto:lacfemrmarks@gmail.com)*

## DID YOU KNOW....

Don't know about you, but some people are natural eternal students. They need to be involved in some type of class or reading about their chosen subject at all times.

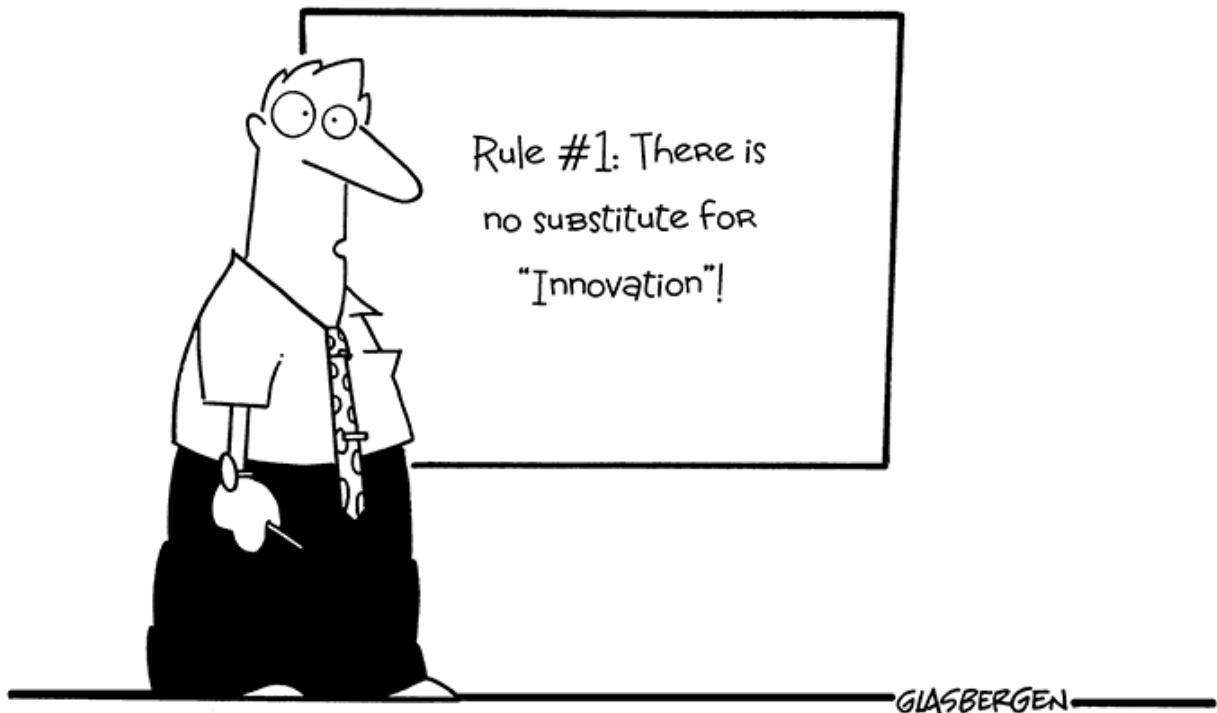
If you are that person, the ACFE may have an "knowledge fix" for you! The ACFE has archived webinars on their website that are free to members.

**Knowledge, Free, and CPE credit as well.**

You cannot possibly go wrong with that!

Log-in to ACFE.com and in the Search bar type archived webinars. There are 11 to choose from that are 60 minutes in length and provide 1 CPE. Topics and speakers vary. Check It Out Today!

© Randy Glasbergen / glasbergen



**"Would the woman with the thesaurus please sit down and be quiet?"**

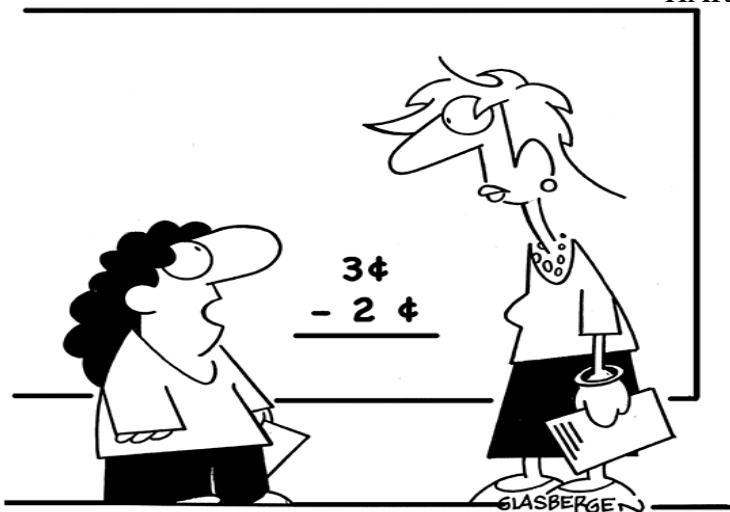
**LAST MONTH'S SUDOKU ANSWERS**

1	6	4	3	5	2	8	9	7
9	2	8	4	7	6	5	3	1
3	5	7	8	1	9	4	2	6
7	1	3	6	8	5	2	4	9
5	8	9	2	4	7	6	1	3
2	4	6	9	3	1	7	5	8
8	9	1	5	6	4	3	7	2
4	3	2	7	9	8	1	6	5
6	7	5	1	2	3	9	8	4

ANSWER TO OCT 2018 PUZZLE – EASY

5	3	9	8	7	1	6	2	4
2	1	8	4	3	6	9	5	7
7	4	6	9	5	2	1	3	8
6	8	7	5	1	4	3	9	2
1	2	3	7	8	9	5	4	6
4	9	5	6	2	3	7	8	1
9	5	1	2	6	8	4	7	3
8	6	4	3	9	7	2	1	5
3	7	2	1	4	5	8	6	9

ANSWER TO OCT 2018 PUZZLE - HARD



**“Do you want my answer in school math, government math or corporate math?”**

## IN THE NEWS

*Algerian Man is Sentenced to 15 Years' Imprisonment for Conspiring with Pennsylvania Woman and Others to Provide Material Support to Terrorists*

<https://www.justice.gov/opa/pr/algerian-man-sentenced-15-years-imprisonment-conspiring-pennsylvania-woman-and-others-provide>

*Texas Businessman Pleads Guilty to Money Laundering Charges in Connection with Venezuela Bribery Scheme*

<https://www.justice.gov/opa/pr/texas-businessman-pleads-guilty-money-laundering-charges-connection-venezuela-bribery-scheme>

*Art Dealer Sentenced to 18 Months in Prison for Fraud*

<https://www.nytimes.com/2018/09/27/arts/design/art-dealer-sentenced-to-18-months-in-prison-for-fraud.html>

*Newsweek's Former Owner Faces Fraud Charges*

<https://www.nytimes.com/2018/10/10/business/newsweek-ibt-fraud.html>

*Two Home Health Agency Owners and Two Employees Convicted for Roles in \$3.7 Million Home Health Fraud Scheme*

<https://www.justice.gov/opa/pr/two-home-health-agency-owners-and-two-employees-convicted-roles-37-million-home-health-fraud>

*Police raid Indian call-centres linked to 'CRA phone scam' that has victimized Canadians*

<https://www.cbc.ca/news/world/national-cra-india-rcmp-scam-1.4883796>

*Businessman Indicted for Conspiring to Bribe Senior Government Officials of the Republic of Haiti*

<https://www.justice.gov/opa/pr/businessman-indicted-conspiring-bribe-senior-government-officials-republic-haiti>

*SEC settles fraud case with Texas oil man 'Frack Master'*

<https://www.cnbc.com/2018/10/23/reuters-america-sec-settles-fraud-case-with-texas-oil-man-frack-master.html?&qsearchterm=Securities%20fraud?>

*Hong Kong investigates \$1.3 billion securities fraud case*

<https://www.cnbc.com/video/2018/10/02/hong-kong-investigates-1-point-3-billion-securities-fraud-case.html?&qsearchterm=Securities%20fraud?>

*Ex-congressional candidate Shaun Brown convicted of fraud, but maintains her innocence*

[https://pilotonline.com/news/local/crime/article\\_93603456-dc6f-11e8-ada9-d30e760ffa9c.html](https://pilotonline.com/news/local/crime/article_93603456-dc6f-11e8-ada9-d30e760ffa9c.html)

## THE BILLION-DOLLAR QUESTION: WHERE DO CORPORATE FINES AND PENALTIES GO?

By Mark Blangger, Research Editor, Association of Certified Fraud Examiners  
Originally printed in *The Fraud Examiner*

Anti-fraud professionals' efforts in detecting and exposing fraud across multiple industries often result in severe fines and penalties. While these might make national or global headlines, what is often left unanswered in those stories is who benefits from the well-deserved fines and penalties levied against major corporations.

The following is a mere sampling of corporate malefactors, their high-dollar punishments and the enforcers.

- **2015:** After the largest oil spill in U.S. history, which released an estimated 184 million gallons of crude oil into the Gulf of Mexico, British Petroleum (BP) reached a \$20.8 billion settlement with the U.S. Department of Justice (DOJ) and five states bordering the Gulf.
- **2016:** The Volkswagen scandal involving secret software that the automaker installed in its diesel cars to cheat exhaust emissions tests garnered the corporation a \$14.7 billion fine by the DOJ, the Federal Trade Commission and the state of California.
- **2017:** The Takata Corporation, a Tokyo-based manufacturer of automobile airbags, was sentenced by the DOJ to pay \$1 billion in criminal penalties related to wire fraud and defective airbag inflators.
- **2018:** In April, the Consumer Financial Protection Bureau (CFPB) and the Office of the Comptroller of Currency (OCC) slapped Wells Fargo with a \$1 billion fine for "improper practices," including selling unnecessary products to its customers.

### The enforcers

The DOJ is one of many federal enforcers that wields the power to exact fines and penalties against corporations. The Securities and Exchange Commission (SEC) and the Internal Revenue Service (IRS), among several others, can also exercise that power. The fines and penalties levied by federal and state agencies range from health care fraud to mistreatment of consumers.

What these agencies do with the fines and penalties they "collect" depends on their respective functions. One function of the SEC, for example, is to enforce the Sarbanes-Oxley Act (SOX) passed by Congress in 2002, which includes overseeing most everything related to securities, including the stock exchanges, brokers and dealers, advisors and mutual funds.

Prior to SOX, the civil penalties levied by the SEC went to the U.S. Treasury General Fund, the government's bank account and checkbook, so to speak. Since the enactment of SOX, the SEC uses any civil fines collected to reimburse victims of the crime perpetrated. Additionally, the SEC can require perpetrators to pay disgorgement and fines.

## **The featured malefactors**

So, where did those billions of dollars paid by the four featured corporations go?

### ***British Petroleum***

In addition to the oil spill resulting from the 2010 explosion of the Deepwater Horizon offshore oil rig in the Gulf of Mexico, 11 rig workers were killed. Two BP workers responsible for safety on the rig were charged with manslaughter, but federal prosecutors later dropped the charges. The combined \$20.8 billion fine against BP imposed by the DOJ in 2015 is the largest environmental fine in U.S. history. Payments will be made over time, and the consent decree requires that BP pay the following:

- \$5.5 billion as a federal Clean Water Act penalty to help restore the Gulf region
- \$8.1 billion in natural resource damages for use by federal and state trustees to restore injured resources, plus \$700 million in interest to be used for any damage that might be discovered at a later date
- \$600 million for other claims, such as reimbursement of federal and state natural resource damage
- \$4.9 billion to the five Gulf states affected by the spill and up to \$1 billion to local governmental bodies to settle claims for economic damages
- \$90 million paid by a separate offshore company that had a 10% stake in the well; \$45 million was dedicated to benefit coastal habitat protection projects (resources did not indicate how the remaining \$45 million was to be used)

### ***Volkswagen***

John German and his colleagues at the International Council on Clean Transportation, a nonprofit organization, had been investigating Volkswagen since 2013. German submitted the team's data to the California Air Resources Board (CARB) and the Environmental Protection Agency (EPA) in 2014 — as well as Volkswagen. After German's findings were substantiated, and Volkswagen CEO Matthias Mueller admitted that this was a "problem that we caused some time ago," the high-profile German car manufacturer entered into an agreement with the DOJ. The \$14.7 billion settlement is to be allocated as follows:

- \$10.03 billion to compensate consumers (amounts will range from \$12,500 to \$44,000, depending on the model, year and mileage of the vehicle)
- \$2.7 billion to fund nitrogen oxide emissions-reducing projects across the country

- \$2 billion for infrastructure improvements and access and education to support the advancement of zero emissions vehicles — \$1.2 billion toward a national EPA-approved investment plan, and \$8 million toward a CARB-approved investment plan

### ***Takata Corporation***

The Japanese manufacturer of automobile airbags used by many foreign and domestic car makers pleaded guilty to concealing a deadly defect in its airbag inflators that killed at least 22 people and injured more than 180. Three members of Takata's C-Suite face criminal charges for falsifying and altering test results that proved the severity of the defect. The DOJ has ordered that the funds be used to pay a \$25 million fine and to establish two restitution funds:

- \$125 million for individuals physically injured by the airbags
- \$850 million for the car manufacturers that incurred costs related to recalls and replacement of the air bags

### ***Wells Fargo***

In addition to multiple lawsuits by whistleblowers for wrongful termination, the scandal-plagued banking giant's latest \$1 billion fine, levied in April by the CFPB and OCC, involves charging mortgage customers rate-lock extension fees and charging approximately 570,000 car-loan customers for car insurance they did not request or need. After an internal review, the bank discovered that about 20,000 of those customers likely had their cars wrongfully repossessed for defaulting on the loans. The CFPB and OCC's fine is in addition to the \$64 million in refunds the bank promised to pay customers and the \$16 million in adjustments to customers' accounts. The CFPB and OCC will split the fine as follows:

- \$500 million to the OCC, which will go to the U.S. Treasury
- \$500 million to the CFPB, which will go to the Civil Penalty Fund, which compensates consumers harmed by civil infractions

These examples indicate a sense of transparency in how the fines and penalties levied by government agencies in these cases were allocated and disbursed. However, there are situations in which funds are "misappropriated." For example, of the collective \$110 billion in fines imposed on banks by government authorities (e.g., DOJ, Federal Housing Finance Agency) in the 2008 mortgage crisis, more than \$5.3 billion went to individual states to "spend as they saw fit."

Rather than using the funds to support their citizens affected by the crisis, New York allocated their portion to building a new horse barn and stables for its annual state fair. Delaware chose to subsidize email accounts for local police. And New Jersey handed over \$8.5 million to a mortgage firm — owned by an individual — as a reward for reporting a bank's misconduct. Where the millions in fines and penalties that make their way into the U.S. Treasury General



Fund go is another story for another time.

The 2018 *Report to the Nations* found that the median fine a victim organization faced for having inadequate controls was \$100,000 and financial statement fraud schemes were the most likely to result in a fine. Ultimately for fines to work as a deterrent for fraud, there needs to be more transparency about allocation and distribution of the proceeds going to those victimized by the fraud

## QUOTE OF THE MONTH

---

**"I want to be clear. No company is too big to be prosecuted. We have zero tolerance for corporate fraud, but we also recognize the importance of avoiding collateral consequences whenever possible."**

**Alberto Gonzales** when announcing the KPMG indictments