the new forensics

Investigating Corporate Fraud and the Theft of Intellectual Property

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Joe Anastasi’s *The New Forensics* is a timely book that addresses some of today’s crucial issues.

He describes in fascinating detail how our national security is dependent, in part, by computers analyzing raw data collected by communication satellites. The story is told how forensic accountants using computers were able to achieve some sense of justice by locating and identifying “dormant accounts” in Swiss banks that belonged to victims of Nazi persecution. There is also a chilling story of the cyber theft of credit cards by persons operating solely within Russia.

But the main thrust of the book is the story of how forensic investigators using computers today can detect fraud and other corporate criminal activities. The facts of Enron, WorldCom, and the other major scams are carefully laid out as is the arrogance of the major actors. Any questions one may have as to how they were carried out and how they were solved are answered.

The technology is explained in simple, understandable terms. Today’s Sergeant Joe Friday does not write in a small notebook in the course of solving crimes, he now reconstructs the data from imaging hard drives.

The real value of the book, however, is not in the explanations given, but rather in the moral issues it raises. It is a tale of contrasts the stunning achievement of science in uncovering vast webs of criminal activities and the shocking revelation of human greed and corruption at the highest corporate levels. Their frauds were known or at least suspected by a number of people within and working with those companies.

Why were there not more whistle blowers? Where were all the other (possible) Sherron Watkins, Cynthia Coopers, and Gene Morses? More alarming yet, where were the investment bankers, the accountants, the lawyers and the bankers who help set up these schemes?
VI  Foreword

This is the question posed by the book. It is one that each of us in one of these professions must answer. If we ignore it or fail to deal with it, we will have lost the opportunity to restore public confidence in corporate America. The choice is ours.

HON. CHARLES RENFREW
Former U.S. Deputy Attorney General
(Carter Administration),
and Former U.S. Federal District Judge,
Northern District of California
The initial motivation to write this book was to explain the use of computer forensics and other technologies in investigations. As must happen with most literary efforts—though of this, I can only surmise—the darn book took on a life of its own. Even before the year 2002 unfolded, the hunt for al Qaeda terrorists brought to the attention of many, the notion of computer forensics. Many clues were being unearthed as a result of the forensic examination of computer laptops recovered by law enforcement authorities across the world. Then the Enron scandal imploded.

Early in 2002, things started to get very strange. The deletion of documents and e-mails in the corporate world interested almost everyone in this country. Suddenly what I do for a living became of interest to people who were not even members of my immediate family. And as the WorldCom fraud unfolded, it became hard for anyone to escape the daily news accounts of one aspect or another of the corporate fraud that seemed to have become endemic during the days of the Internet Bubble. As the year progressed, I continued with my daily business, and the writing of this book.

I have been scrupulous in attempting to avoid the breaching of any attorney-client or work-product privilege regarding the particulars of any of the cases that I have analyzed in the book. I selected cases for examination that possessed a peculiar and perverse elegance. They were cases in which people had either (1) already been sentenced to prison, (2) had pled guilty and were cooperating with the authorities, (3) were currently under indictment, or (4) were in a situation where information about their shenanigans had somehow been tossed on the garbage heap of our new age—the public record. In several of these cases, the attorney-client privilege and any work-product privilege had already been waived, or documents were already residing in the public domain, as the corporations themselves had decided to cooperate with law enforcement and
investigative agencies. In the numerous interviews conducted during the research related to this book, I have never had a document proffered to me by an interviewee, nor have I asked to see a document. This book is significantly oriented toward the nature of the various human interactions and behaviors leading to fraud, and the use of technology to uncover fraud.

I chose to fictionalize certain aspects of several of the cases examined. I did this even though the perpetrators of the corporate frauds were cooling their heels in prison. For reasons I prefer not to go into, I felt it to be somewhat more circumspect to fictionalize a name here or there—or two, or three. Then, because I was now on a roll, I continued with the subterfuge. Dates fell by the wayside; then entire cities and geographies—even the size of the corporations involved. Sometimes in my rush to achieve the desired aspect of anonymity, even the industry in which the specific corporation competed was disguised. One day, I awoke and thought to change some of the products and brands that had been involved in the scandal. Another day, I resolved to change the amount of money involved in the fraud, though I allowed it to remain dollar-denominated. In a later pang affecting my conscience, I even changed other details—sometimes it had to do with the weather, other times it regarded the height, weight, and age of a particular perpetrator—the color of their hair, even.

In my writing of this work, I took not an inconsiderable amount of comfort and solace from the very existence of Lord Moran and a book he had written, published in 1966. It was a book detailing his daily relationship with Prime Minister Winston Churchill. This 859-page memoir was published shortly after the great man’s death, to the astonished gasp of the medical establishment. This was because Moran had served as Churchill’s personal physician during the last 25 years of the Prime Minister’s life. “What about the doctor-patient relationship?” asked members of the profession. The “shrill voice of professional piety” raised its hue and cry—but was not sustained. Why? Because as Alistair Cooke has written, “...a large reading population, half the medical profession, and posterity itself had confirmed the unique value...” of Moran’s memoir.

*  *  *

As the year 2002 rolled by, one sector after another of our global economy bubbled to the surface as having been affected by the phenomenon of the Internet Bubble. It had not, after all, simply been an Internet Bubble. The label originally affixed to the malaise of this particular bubble implied that only investors in Internet stocks would feel its effect. This, though, is simply not true. Its symptoms were becoming manifest in many seemingly
unrelated industries. Its aftermath rippled out in an ever-broadening circle: the technology sector bubbled up first; then the telecom and energy sectors; a little later, the consumer products industry; and then after that, even the healthcare industry. As I wrote on, completing chapter after chapter, I started noticing parallels in the outside world unspooling in real time. The parallels were to the particular cases I was examining in this book—Morgan Fay, for example.

And so I went back to the beginning, rethreading the narrative through the needle, as I now more clearly perceived it.

There appeared to me now, a commonality—in the human behaviors that seemed to have been occurring during these past 10 years or so; and a commonality in practices, expectations or reward systems that had been put in place during that last decade or two that seemed to be driving some of these untoward behaviors. Behaviors that led to calamity, and for more than just a few. I identify these observations as a particular brand of corporate culture. I believe it is important for all of us to recognize the elements of this phenomenon, and when we see aspects of it again, in the real world and in the future, to recognize it for what it is. And not succumb to it. The confidence we all wish to be able to place in our financial systems, for all of our mutual future benefit, will not be misplaced if the lessons we learn today are remembered, and appropriately acted upon, in the tomorrow. But these are individual decisions. They are made daily. And they are made on a case-by-case basis. By people everywhere, as they go about their daily business affairs.

*  *  *

For 28 years—all of my professional career, really—I have worked for two very large firms. The first 23 years were with Price Waterhouse. The years since 1997, Deloitte. The opinions and conclusions put forward in this work are mine and mine alone, and do not represent the opinions of any other representative of either of these two fine firms. Any mistakes, or mistaken conclusions, in this work also remain mine alone.
Acknowledgments

During the many long weekends, late evenings, missed vacation days, and holiday time absorbed by the writing of this book, my wife, Patti, was unbelievably patient and supportive. Beyond this, she also served as part-time transcriptionist, initial reader, and editor, and to cap it all, she read the complete manuscript several times. All of this was done cheerfully and with love and understanding, and for this I will be forever grateful.

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J. A.
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