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CHAMELEONS IN THE MIDST OF HAWKS: The Real Meaning to Be Attributed to the Definition of Fraud¹

Introduction

The assumption of a different name for professional purposes dates back centuries – where environments did not encourage certain practices by certain genders.

Even presently, the Internet Revolution – fuelled by online transactions and practices, is inducing many to assume measures aimed at the protection of their data – as well as privacy. How important is a professional career or the need to protect privacy such that the necessary, consequent (and ultimate) change involved with official documents also justifies such change? It will be argued by some that getting used to a new name is just a matter which can be adjusted to (and easily over time) – particularly with ease during an age where all documentation is also increasingly becoming digital.

And what of those who have done nothing at all to change their names – but who have already been defined by society through their names – even though such definition or expectations may not necessarily accord with their true or real nature? Are they to be criticized for choosing to live genuine lives – which are regarded as contrary to societal expectations – by virtue of prior and already perceived perceptions? A case of the character or person (behind the name) not corresponding to what was expected – hence in the public view, not the real deal?

As well as highlighting what should constitute ultimate considerations in determining whether fraudulent acts have been committed, this paper and presentation also aims to highlight challenges faced in an increasingly digital economy – as well as highlight the role of forensic accountants in addressing such challenges.

Key words: digital economy, fraud and error detection, forensic accounting, privacy protection

Legal Definition of Fraud

Based on the Fraud Act 2006, subsection (1) provides that:

“A person is guilty of fraud if he is in breach of the sections listed under subsection (2) which provide for different ways of committing the offence – the sections being:

- ▶ a) Section 2 (fraud by false representation)
- ▶ b) Section 3 (fraud by failing to disclose information), and
- ▶ c) Section 4 (fraud by abuse of position)

¹ Jim DiGabriele and Marianne Ojo

Ascertaining the Real Definition of Fraud

Another constructive definition should also provide for the act in question – as well as the rationale behind the Act

Refer to 10 Case Scenarios for this (Under Publication with Presentation Slides)

Role of Forensic Accountants

Whilst traditional auditing techniques – as well as audits, focus on error prevention, detection, as well as identification, forensic accountants increasingly have a vital role in addressing fraudulent practices in a rapidly advancing technological and digital environment. Given limitations presented on traditional audit techniques- as well as increased sophistication of computer techniques (and fraud perpetrators), skills harnessed and possessed by forensic accountants continue to prove priceless within such an evolved technological environment.

Transfer of Proceeds Involved?

Further there are numerous business activities – as well as authorized engagements which are usually undertaken on behalf of another person – or representative. Even where such a representative has access to vital and sensitive information such as identification – as well as other information required to facilitate transactions (and this is frequently the case with bank withdrawals and deposits), it is easier to verify whether a fraudulent act is being undertaken – not only by virtue of contacting the person whose identity constitutes the focal point of investigation via different verification methods, but also by verifying (in case of deposits), to whose account proceeds are actually being made.

In many cases, it will ultimately also depend on the circumstances surrounding the case (as a whole). It is also the case that undue concerns may draw attention to the rationale behind such concerns.

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