



Guilty Until Proven Innocent

By Mandy Moody, ACFE Social Media Specialist

Did he do it? Did the investigators get the facts right? Those are just two of the many questions that Linda Saunders, CFE, CPA, CFF, CGFM, owner of Forensic Accounting Consulting, was able to answer and convey to a jury as an expert accounting witness for her first criminal defense case in Idaho. In Monday's breakout session, "The Fraud Trial: A Case Study of the Innocent," Saunders detailed the issues anti-fraud professionals could face when being called to provide expert testimony.

At first glance, Saunders thought she was being asked to defend a crook. The State of Idaho Attorney General, along with help from the Idaho Department of Insurance, was prosecuting an insurance agent on eight counts of insurance fraud, forgery, grand theft and racketeering. Within those counts were 134 Predicate Acts of insurance fraud, grand theft and forgery. The numbers alone would scare any possible defense witness. But, after giving due diligence, Saunders quickly realized that some mistakes had definitely been made.

"The more the case unfolded, the more I was convinced I could help unravel the journal entries and offer some sort of opinion," Saunders said. "The prosecutor's expert witness relied on the insurance agent's bookkeeper's analysis. I needed to go in and check the debits and credits myself."

Using her version of "The Fraud Triangle," Saunders profiled the alleged criminal in order to find opportunity, perceived needs and the motivation. The man on trial struck out on all three, according to Saunders' profile; the intent that the prosecution needed to show a jury simply wasn't there. And, after analyzing more than 500,000 documents, Saunders discovered even more flaws in the opposing counsel's case. The bookkeeper, who was provided immunity for her testimony, lied on her resume, forged her manager's name on checks and submitted fraudulent travel expense reports. The defense attorney gave these facts to the jury, validated further by Saunders' expert testimony that she found all the cash accounted for.

"Something you have to remember is that when you get on the stand, you have to pretend you are explaining the data to your mother-in-law," Saunders advised. "You have to speak in plain language. When I testified, the jury was taking notes; when the opposing expert testified the jury put their pens down."

Along with providing jargon-free testimony, Saunders reinforced the importance of anti-fraud professionals on the stand to always give careful due diligence. That, teamed with an investigator's facts and reliable witnesses, could prove to be a vital combination, one that could change a verdict.

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