
Deadly Sins

by Michael J. Comer

Blind Pugh's Law

Many (if not most) organizations are woefully unprepared when they discover the symptoms of fraud. Within hours of suspicions being aroused, the investigation is irreparably compromised through incompetence, panic, disbelief, ignorance or, more often, because the managers put in charge of getting the money back were preoccupied with protecting their own backsides.

Because of such fatal failings:

- 85 per cent of fraud victims never get their money back.
- Most investigations flounder, leaving the victim to defend against itself counter-attacks by hostile parties.
- 30 per cent of companies that fail do so as a result of fraud.

This chapter recommends, if you have not already done so, that you develop a policy and simple procedures for reacting when suspicions are first aroused. Obviously, it is much easier to persuade managers to agree policy and procedures in the abstract, where they cannot have any reasonable objection to valid principles, than it is to convince them to take appropriate action in the heat of the moment, in a case in which they are emotionally involved. A policy cuts out the panic and eradicates erratic decisions.

If This were to Happen to You . . .

As usual, you, as Marketing Director for Nice Grub International Ltd, arrive at the office on the 8.15 a.m. train from Cheam and open your mail:

Date as postmarked

Dear Sir,

You should know that for the past four years Robin Blind, your Marketing Manager, and his assistants have been working a scam. They have been selling food products which have been returned by your customers for destruction because they were stale and past their sell-by dates.

Basically, what Blind does is to remove the correct sell-by dates, replacing them with new labels to make it appear that the food is fresh when it is not. The product is then sold to your usual customers, and then on to the public. **THESE PRODUCTS ARE DANGEROUS**, and I know that at least one person has died from food poisoning as a

result. Blind has made at least a million for himself, and his little pals have made the same. I have all the evidence, and I want £5 million to keep quiet.

Contact me with your agreement to pay by placing the following advertisement in the Personal Column of the *Coulsden Weekly News*:

‘Muncher come home quickly: Love Mum.’

Also give me a mobile number on which I can contact you.

If you do not do this, keep a lookout on the papers, as I am sure that Rupert Murdoch, Max Hastings and Private Eye will be interested. God knows what will happen to your company from there on.

Yours ever

Muncher

PS Be careful on your office telephone, as Robin has bugged it and knows all about your ‘little personal indiscretions’: know what I mean?

Now what do you do? Without a plan, the most likely reaction would be to take an extended visit to the bathroom and then panic – and you would be right. Good planning and an effective policy are the answers to fraud’s deadly sins.

Each sin is illustrated with cases taken from the real world, although identities have been changed to protect the idiotic and gullible. Each sinful section summarizes the lessons to be learned.

Sin 1: Looking After Their Own Nuts

Employees responsible for managing operations in which fraud took place are made responsible for investigating it.

Putting inexperienced, ignorant, possibly culpable and sometimes crooked employees in charge of an investigation that could result in their own shortcomings being exposed is like asking the monkeys to distribute peanuts equally. Inevitably, some animals will lose their nuts.

THE BANK MANAGER

A major financial institution was defrauded of over £100 million, mainly through fraudulent project financing loans to a group of companies that we will call Snaffle Inc., managed by Robin Crooke. Snaffle Inc. was, in fact, a front for organized criminals with no legitimate business. Mr Joe Snow, Head of Credit, had approved the original advances without making adequate checks, but was put in charge of what he described as a 'credit workout'. He confidently reported to his directors that there would be no problem getting the money back. He appeared relaxed; but inside, his stomach was churning.

Joe's delay in recognizing the obvious – which is typical, and an example of self-deception – allowed the crooks to make a safe escape and to hide their funds even more deeply than they already had. When he realized this, he told no one, but looked in the *Yellow Pages* and retained a firm that claimed it could trace hidden assets: 'Breaking through the veils of off-shore tax havens is our speciality,' proclaimed the advert. Joe liked the sound of this, as a bit of 'hanky panky' did harm to no one.

The asset tracers first obtained (albeit illegally) the itemized telephone billing records of Snaffle Inc. and its directors, and tracked banks they had called. The asset tracers then telephoned these banks, posing as, among other things, accountants, bankers, lawyers, doctors and priests, and asked for confirmation that Snaffle Inc. 'was good for £10 million' or whatever amount took their fancy. Based on these unreliable and illegal findings, they advised Joe that Snaffle Inc. had funds at banks in Switzerland, Germany and the Isle of Man.

Joe was delighted, retained the small firm of lawyers where his daughter was a

trainee solicitor, and asked the partners to seize the monies which the asset tracers had identified. Although the firm had little litigation experience, Joe thought that recovery would be simple. Initially, so did the lawyers. Joe thought passing business to them would improve his daughter's career.

After a few promising meetings, the lawyers said there was no 'evidence' on which to base a seizure order, and that, in any case, they would be totally unable to use the information gained by the asset tracers. Joe did not understand what they meant by the word 'evidence' – after all, the asset tracers had reported there was money to be had, so what was the problem?

The lawyers explained, and cautioned Joe that mere acceptance of the illegally obtained bank information and telephone records exposed him to criminal charges of deception, or worse. The colour drained from Joe's face – he did not like the idea of jail. He was so worried that he took his file home and burned it in the garden.

Things were now getting serious, and Joe called in the bank's Head of Inspection, insisting that he should report the case to the police so that they could track the disappearing debtors and get the bank's money back. The Inspector, being junior to Joe and something of a creep, complied without demur. 'Yes, of course, Joe,' he said, and rushed off without any real idea of what was expected of him. There was nothing unusual in his being confused, and he could not wait to get transferred out of inspection into what his wife said was a 'proper job', where he could lord it over customers, play golf, and have lots of lovely long lunches. He did not like being an inspector.

A few weeks later, the police reported

that they had traced Robin Crooke, and when Joe heard this, he insisted that the Head of Inspection should do the same. 'If PC Plod can trace him, anyone can,' Joe said. The inspector did as he was told, and using the dodgy asset tracers, tracked Robin to a villa in the Algarve, where he was living with his latest girlfriend and her fat and ugly mother.

Joe and the Inspector ambushed Robin in his Algarvian retreat as he was just about to barbecue a pig. Robin was not pleased by the appearance of the uninvited guests, and threw them out. The badly crestfallen Joe stood on the drive of the villa shouting obscenities and making threats which were less than veiled. Robin came out and hit him with a shovel. The distinguished Head of Credit was rushed to hospital with a broken arm and hurt pride.

When the police investigating the fraud heard what had happened, they warned Joe that he should not have approached witnesses or defendants, and

that he would be reported for attempting to pervert the course of justice. Joe felt battered and bruised, but he still reported to his managers that the 'case was focused' and that he was 'confident the full amount would be recovered'. Deep down, he knew differently, but his managers were desperate to swallow the sort of news they wanted to hear, and did not ask questions. Besides that, if Joe was prepared to take the responsibility, why should they worry?

From this point, the case went from bad to worse; the police dropped the prosecution, and the bank eventually had to write off its losses. While Joe was living out his detective fantasies, other business went down the tubes, and the bank faced a string of new losses. But irony of ironies, Joe was promoted to a new position in Asia and, no doubt, will live happily ever after. We saw him the other day, and he looked happy enough, in spite of the scar left by the shovel.

COMMENTS AND LESSONS: SIN 1

Everything is easier to get into than to get out of. The reliability of people and organizations in whom trust is to be placed should be checked before a commitment is made. The checking should be independent and professional.

The person potentially responsible for a loss should never be allowed to investigate it. There are two reasons for this:

- The investigation must be independent – this protects both the organization and the line manager in whose area dishonesty is suspected.
- Line managers must concentrate on their routine business.

Advisers who offer the impossible or who agree to break the law should be avoided at all costs. In fact, every organization should select and screen the advisers it might need to use in an emergency *now*, before the disaster strikes.

Not all people working in inspection, audit, security and investigations either like, or are good at, the job. Make sure you have professional advisers available to you.

The police are not debt collectors.

Once you report a case to the police, do nothing to impede their investigations.

Sin 2: Driving an Investigation on Costs

Conflicts of interests of the type previously described are made even worse when the department in which fraud is suspected has to absorb legal and investigative costs.

This sin arbitrarily misdirects the investigation and allows the perverse or protective manager to starve it of funding, thus ensuring his deficiencies are not exposed.

ESCORTS GALORE

An investigation was moving along just fine, driven by a team of external lawyers and consultants reporting to a director of a bank. He had been very positive throughout, and the team was confident it would recover many millions of dollars under fidelity insurance. Then the client's support suddenly disappeared. Invoices from the lawyers and consultants were not paid, and the director's deputy questioned every line of enquiry and its cost.

Before long, the case ran out of steam and then collapsed. The director blamed the consultants for the failure, saying that they were 'too greedy, had lost focus and were going nowhere'. His managers accepted this excuse, since they didn't like paying consultants either.

A few months later, the real reason for upsetting the lawyers and consultants emerged. It appears that one evening, the

main suspect working for the bank called on the director and warned him that if the investigation continued, some very fruity photographs and tape recordings of his sexual misbehaviour with escorts whilst overseas on the bank's business might materialize.

The director was terrified and wanted to comply, but did not wish to put his neck on the line by terminating the investigation. However, he achieved the same result by not paying the advisers' bills and by nitpicking, causing them to withdraw.

The bottom line was that suppression of the director's indiscretions cost the bank \$20 million. But the problem has not really gone away, and if the shareholders were to ever discover the truth, all hell would break loose.

When personal interests conflict with fiduciary responsibilities, the usual loser is the victim organization. Bad guys protect themselves first.

COMMENTS AND LESSONS: SIN 2

Investigations should be driven by objectives and a clear action plan based on the principle of finding the truth, the whole truth and nothing but the truth in the most cost-effective way. At the start of an investigation, it is likely that the victim sees less than 10 per cent of the picture. When actions are driven primarily by a desire to avoid costs, the investigation will fail.

When an investigation is successful, costs can be recovered. For example, it is more cost-effective to spend £200 000 on an investigation which recovers £10 million than it is to spend £20 on one that recovers nothing.

However, costs should not be incurred if the best available professional advice (not subjective guesses by inexperienced employees) indicates that potential recoveries are not worth the effort.

The costs of investigations and recoveries should – at least initially – be charged to a central overhead, and not to the budget of the department in which the dishonesty occurred.

As a general rule, legal, investigative and recovery costs amount to 10 per cent of the funds defrauded. There are, of course, exceptions, but this is a good yardstick.

The best advisers are those who tell you when you are wrong.

Sin 3: Personal Financial Interests

To protect their own rear ends or to conceal their culpability, some managers wilfully fail to respond to the symptoms of fraud.

The line manager who is put in charge of investigating a case which could result in his censure is in an impossible position. In such circumstances, the only loser is the organization which employs him.

THE CHAIRMAN OF THE AUDIT COMMITTEE

At a 1998 fraud seminar, a delegate – who was a very senior representative of a leading listed company – approached one of the speakers after the close of the day's session. He explained to the speaker and the seminar organizer that he was Chairman of his company's Audit Committee, and that in the past few weeks he had received reliable information that the company had been defrauded of at least £100 million.

The alleged scam was based on the purchase of land for building development in an emerging country. He said he had told no one, and had avoided the last two Board meetings because he could not bear to face people he was sure were dishonest. The Chairman was obviously a nice, ethical man.

The Chairman said he had been told that a group of his company's senior managers had set up a trust in Switzerland

which had taken an option to buy the land from the real vendor for £60 million. Then, based on false reports from compliant surveyors and architects, they had convinced their colleagues on the Board that the company should buy the land for £160 million. The case to justify the purchase was, apparently, very convincing, and well within the company's investment criteria.

The land was duly bought, with the switch deal through the Swiss trust making the senior managers a cool £100 million profit. However, a year later the company discovered that the land was totally unsuitable: the gradients and subsoil were such that the actual building densities were less than 50 per cent of those indicated in the proposal to invest.

The Chairman said that the legal position in the countries concerned was very clear, and it was equally clear that at

the end of the financial year the loss would have to be reflected in the company's accounts.

He asked what he should do. The speaker said he would be happy to make a few background checks without charge, and these confirmed the Chairman's suspicions. The Chairman asked for a written proposal for the speaker's company to carry out a detailed investigation. This was faxed to him the next day.

A few weeks went by before the Chairman responded. His letter concluded:

It will be difficult for me to get your proposed appointment approved by the Board, as the Managing Director, Deputy Managing Director and Executive Director are three of the five persons now under suspicion and 'delicate investigation'. The fourth suspect is the General Manager who resigned suddenly, apparently on the advice of his superiors with the purpose of frustrating our enquiry trail. I don't have the financial authority as Audit Committee Chairman to make the appointment proposed. What should I do?

The speaker answered that he should resign immediately, to try to minimize his

personal liabilities. The seminar organizer, who had been in regular contact with the Chairman, responded:

Resigning is out of the question, as he is not a wealthy man. What is your alternative approach? I detected that he was somewhat offended and flabbergasted by your suggestion of his resigning. Are you jesting?

The speaker's response to this was that the recommendation was not a joke and that the Chairman was sitting on a timebomb: '... if he does not do something now and the case becomes public, he could be in a very serious personal position. I suggest that he consults a lawyer without delay.'

This was the last to be heard of the case, and over a year has passed. The Chairman is still in place, drawing his fees and, as far as we can see, the land is valued in the company's published accounts at £160 million.

But sooner or later the house of cards must fall. Who knows, as we only get to know of concealments that fail? The Chairman may escape with his life intact, but he may not. If the public shareholders ever heard about the case, they would be less than delighted, as the write-off of the useless land would reduce the company's market capitalization by 15 per cent.

COMMENTS AND LESSONS: SIN 3

The difference between a supermarket trolley and an Audit Committee member has been described thus: 'The first has a mind of its own, but the second holds more booze and food.' Audit Committees must be effective.

Personal financial interests should never be permitted to interfere with an employee's fiduciary duties.

Senior managers who take decisions to favour their private interests or personal career development render themselves impotent in all other cases.

Sin 4: Giving in to Blackmail

In most serious cases, crooks counter-attack and make threats to harm the victim. These are mainly bluffs, but when they are not, the allegations must be faced head-on.

Impotence is especially obvious when senior managers knowingly break the law.

THE SOVIET CASE

A few years ago the Marketing Manager of a major top-class European company made a presentation to the Directors, urging them to authorize his proposed visit to Moscow to see if there was a market for its products. A few weeks later, the manager made a further presentation, supported by colourful overheads, diagrams and projections. There was only one problem, he explained, which was that a senior Russian official wanted a one-time bribe of £1 million.

Being good, honest, trustworthy members of the business community, the Board took about ten seconds to approve the payment. The manager then explained that the Former Soviet Union was short of hard currency, and that for the first few years the company would have to keep its prices very low. Shipments went forward, and everyone was pleased – presumably on the basis that what it lost on margin it made up on volume.

Then, out of the blue, the company's

subsidiaries in India and Pakistan complained that products were flooding the local markets at prices with which they could not compete. Investigations established that product destined for the Former Soviet Union had been diverted. The manager was interviewed, and readily admitted that he had never visited Moscow, and had no plans to do so; that he had kept the £1 million for himself, and that he had helped himself to another £4 million from the sales of product in India and Pakistan.

The directors were more than shocked at such affrontery, and bayed for his blood. They soon modified their views when the manager told them he had tape recorded the Board meeting giving him approval to pay the bribe, and coolly asked the Directors what they intended to do about it. The response, unsurprisingly, was 'Nothing.' He is now working as an auditor for a leading European organization.

COMMENTS AND LESSONS: SIN 4

Integrity cannot be slightly compromised.

Employees asked to act dishonestly, supposedly in the company's interest, are its most serious liability.

Once a manager gives in to blackmail, he is forever compromised.

What an organization loses on profit is not made up by turnover.

Risks and rewards vary inversely. It is critical that high risks are compensated through effective contingency plans.

Sin 5: Unrealistic Expectations

Managers who have no experience of fraud and watch too much television believe that investigations are easy, fast, cheap and must be successful.

Everyone believes himself to possess a gargantuan intellect, to be an excellent driver and lover, very good-looking, witty and kind – and a super fraud investigator. Of these, the last is the most dangerous delusion. Investigating fraud is a difficult job, best reserved for specialists.

FLAPPER LTD

Flapper Ltd had been defrauded of £20 million on an investment in an emerging country. Retained lawyers and forensic accountants were making steady progress, but it was a difficult and dangerous case, with organized crime involvement. Tom, the senior line manager, was less than impressed, and decided to take matters into his own hands.

He told his Board: 'These people are deliberately dragging things out. It may be good for their fees, but not for us. I am getting on to this myself.'

Ignoring expert advice, he went to the country concerned, and to make matters worse, took his wife along, 'to see a bit of rough'. They booked into the capital's best hotel (which is not saying much), and Tom set about seeing the crooks and generally stirring the pot. One morning, someone telephoned his hotel, and told

him that if he was not out of the country on the next flight, he would be dead.

Tom had learned from television that 'when the going gets tough, the tough get going' and he – a Rambo fan – was not about to be put off by a few local toerags. He hired a guard company for protection, and continued about his business. That night, on returning to his hotel, there was a note that his wife had been kidnapped and that she would be released only when Tom had boarded the next plane for home. He reported the case to hotel security, local management and the police, and they all urged him to comply. Even Tom recognized he had no option. Although he did as instructed, he never saw his wife again. Cynical readers might ask if this was a ploy to get rid of his missus, but we think not.

COMMENTS AND LESSONS : SIN 5

Investigations can be:

- easy, fast and cheap, but not successful
- fast, easy and successful, but not cheap
- successful, but not cheap, fast or easy.

Wise people never bite off more than they can chew.

Line managers manage lines: investigators investigate.

The determination and violence of fraudsters should never be underestimated.

The fact is, most managers do not understand fraud – but that does not prevent them making expert pronouncements on its finer details. This makes it imperative that fraud awareness is promoted through training courses and in bulletins prepared by Audit and Security. When line managers know the score, they are less likely to act irrationally. When they have to comply with a Fraud Policy, the risks are reduced even further.

Sin 6: Falling for Bad Advice

The advice the victim takes in the hours after discovery determines the outcome of an investigation.

Few companies have the foggiest idea to whom they would turn to advise them in a difficult investigation. Appointments made in the heat of the moment can determine the outcome, and there is some dreadful advice about.

THE FRAUD ADVISORY PANEL

The FAP is at the leading edge of the Institute of Chartered Accountants' (ICAEW) fight against crime. In 1998, the Panel, headed by a top solicitor and staffed by a team of nine Fraud Gurus, published a handbook called 'It's Fraud – The Threat to Business'. Practice Note 6 set out guidelines for conducting investigations, and suggested the following first steps:

- **Gather and protect the evidence.**
✓ GOOD, but do so without alerting the suspects.
- **Decide whether to tell the suspect he is being investigated.**
✗ WRONG. The first move you take should surprise the crooks, with the object of catching them in an act they cannot legitimately explain, allowing the investigators to seize the initiative.
- **Consider suspension on full pay while the investigation continues.**
✗ WRONG, especially if you have not already decided to carry out a full investigation.

- **Then decide whether a full investigation is justified.**
✗ WRONG. It is a bit late to think about this when the suspect has already been alerted, and possibly suspended.

The advice borders on the nonsensical, and is compounded later in the handbook by equally unwise recommendations. However, to be fair, the Practice Note was not issued following our suggestions. Given the undoubted skill of the panel members, it has to be assumed that either they did not have time to check the handbook as thoroughly as they would have liked, or they fell for the Cynic's First Rule on Committees, which concludes that:

The aggregate IQ of a committee varies inversely with the number of its members.

Simply stated, this means that the more people there are on a committee, the dumber it is.

Maybe it is a bit unfair to criticize when the Fraud Gurus were giving free advice in a hurry. They might be much more effective when the fee clock is ticking away, or all of the bad advice could have been a double-bluff to lead crooks into a false sense of security.

In most cases, bad advice frightens victims into believing that because of such things as the Data Protection Act, the Human Rights Act, the Privacy Act, European laws, the Curvature of Bananas (Going Straight) Bill, and other rules, regulations, laws, guidelines and edicts, they are helpless in the fight against fraud. This is not so, but in every serious case of fraud, the advice of top-level specialists is justified.

COMMENTS AND LESSONS: SIN 6

Every organization should have expert resources available to investigate fraud.

It is generally more cost-effective to have these in house and to retain consultants for specialist tasks in particularly difficult cases, or where additional resources are essential.

Advisers should never be selected in the heat of the moment. Any organization which does not have internal resources should test the market and prepare a list of consultants – showing the names of qualified individuals – before the event, as part of its Fraud Policy.

Managers should listen to what consultants advise, but if they want eggs, they should not buy a goat.

Many people who are supposed Fraud Gurus have little practical experience.

Their advice is as valuable as a Trappist monk's pronouncements on breakdancing.

At the other end of the scale, there are investigators who cut corners or behave illegally, with dire consequences for their clients. The asset tracers discussed in Sin 1 are an example, but there are plenty of others:

THE PHARMA CASE

The Head of Security for a pharmaceuticals company was concerned that its products were being counterfeited, and he retained a small firm of private investigators to look into two competitors based in the Eastern Mediterranean. The investigators were arrested as they were about to leave the country, and were found to be in possession of documents allegedly stolen from the offices of the counterfeiters.

The police later established that the offices had been broken into, and the men received stiff jail terms. The Head of Security tried to buy the men's silence, but this did not work and they made serious allegations of complicity against him and his employer. He was fired, and his company's trademark enforcement efforts were left in tatters.

All professional investigative or forensic accounting firms have clear policies on the standards they will maintain, and most likely will be members of appropriate professional organizations. Even so, great care must be taken (even with reputable firms) where subcontractors are used.

THE MAIL ON SUNDAY

In December 1991, the *Mail on Sunday* reported: 'The two Britons arrested by the Swiss last month on charges of illegally spying on Swiss companies are under investigation by the British police for similar activities.

In particular, the police are investigating an alleged attempt they made to plant a bugging device inside a computer software company in Poole, Dorset. The Metropolitan Police Fraud

Squad has gathered information from Swiss and Dorset Police.

The two men are Christopher Clark, a 27-year-old private detective who has his own agency in Cricklewood, North London, and businessman Antony Blythe, aged 44. It is now known that they were on an assignment for Kroll Associates, the leading US-based corporate investigations agency, for a fee of £1000 per day plus performance-linked bonuses.

MORE COMMENTS AND LESSONS: SIN 6

The cheaper the advice, the more expensive the consequences.

No organization should use its own external accountants to investigate fraud, because if the investigation is successful it may prove negligence by their audit practice. This is a serious conflict of interest.

Sin 7: Relying on Old Friends

Managers may assume that friends will help them in times of trouble.

It is true that fraud can bring out the worst in people, and this is particularly so when large financial exposures are threatened; then it is every man for himself.

BARINGS: DECEMBER 1995

In December 1995, in response to being sued for \$1 billion for permitting the bank's collapse, Coopers & Lybrand issued writs against eight of Barings' former managers, alleging that if they '... had performed their duties, Leeson would not have been able to incur loss making trades,

and such unauthorized trading would have been discovered and should have been brought to an end'.

Various former directors were blamed for introducing a matrix management system, and for not permitting an investigation into Mr Leeson's activities.

You cannot blame the auditors for protecting their own positions, and no doubt most people would do the same. The point is that relationships break down under pressure. The relationship with insurers may also suffer when a serious fraud is uncovered.

COMMENTS AND LESSONS: SIN 7

External auditors should not be retained to investigate suspected fraud, as they may end up suing the victim's directors and officers for contributory negligence.

When the going gets tough, the tough first look out for themselves.

FIDELITY INSURERS ARE HERE TO HELP YOU

Fidelity insurance should be the final safety net against major fraud, yet it is more often a trampoline. No insurer likes to pay out, and this is understandable. If there is any defect under the policy, cover will be denied, often for one of the following reasons:

- There is no proof that the dishonest employee intended to gain for himself.
- He is not really an employee.
- The claim falls under the loan, trading or other esoteric exclusion.

One of the most difficult objections to deal with is that the employer had prior knowledge of the employee's dishonesty and failed to notify the underwriters. The policy terms vary, but generally cover is immediately invalidated when someone not in collusion with the employee learns of any prior dishonesty and fails to notify insurers. Thus if an employee tells you tomorrow that as a child he stole someone's bicycle and you do not report it, the employee's cover may be out of the window. The exclusion on some policies is more specific, and the dishonesty has to be work-related.

But if you catch Johnny Smith fiddling his expenses and decide to issue him with a written warning without telling the

underwriters, his cover could be withdrawn. If he subsequently defrauds his employer of £100 million, that loss may not be insured.

You should never expect an easy ride from insurers. As one told the *Inside Fraud Bulletin* about computer crime insurance: 'It is a bloody wonderful policy with lots and lots and lots of premium income and absolutely no coverage.' The cynical view of this underwriter is not representative, but it should serve as a warning.

Finally, under most policies, the underwriter is entitled to all of the victim's rights and is therefore able to take legal action – effectively in the victim's name – against anyone potentially liable. Thus the underwriter may sue the victim's external auditors, bankers, advisers, and its directors and officers.

Threats of such actions are a disincentive to the victim's pursuit of a claim, since ultimately they could lead to the underwriter reimbursing the victim organization for the loss whilst making an equivalent recovery from the personal funds of its directors and employees. If, for this reason, the victim drops the insurance claim, it and its directors and officers are liable to shareholders in a dreadful no-win conflict.

MORE COMMENTS AND LESSONS: SIN 7

When fraud is discovered, it is each man for himself, and don't expect any favours.

Although fraud is a corporate problem, the personal future of good employees may be on the line.

Problems are best avoided.

Everything that could threaten a future claim should be reported to underwriters.

Standard subrogation clauses in fidelity insurance policies are dangerous and, where possible, should be amended.

Sin 8: Wilful Blindness

Through lack of experience, determination – or sometimes for worse reasons – employees fail to recognize or react even to blatant symptoms of fraud.

One of the greatest sins has been left towards the end, and that concerns the unwillingness of some managers to accept the truth. It is well known that people who are kidnapped develop a rapport with the kidnappers. This is known as the ‘Stockholm Syndrome’, a phrase coined after a failed 1973 bank robbery in the Swedish capital in which four hostages were taken.

The quartet resisted efforts to liberate them, and one actually later got engaged to one of the captors. In fraud, there is ‘Blind Pugh’s Law’, when victims stubbornly close their eyes to the obvious.

THE SNOW JOB

In the course of general research, Maxima gathered evidence that a senior manager of the British subsidiary of a Continental European company had been taking kickbacks of £6000 a month for the past five years as a reward for permitting a vendor to overcharge by at least £1 million a year.

The evidence was conclusive, consisting of copy invoices from two dummy companies set up by the manager and paid by the vendor, and copies of bank documents and the vendor’s calculations of its overcharging.

Maxima checked with its lawyers, and their advice was to inform the victim’s parent company at the highest level, and to pass over the evidence without any obligation. As Maxima did not know anyone at the parent company, it checked

with other contacts, and an introduction was made to the Chairman.

To say that he was far from pleased at the news would be the grossest understatement. In immaculate English, he said: ‘I don’t like to hear about these things in my company. Why are you speaking to me about this?’

Maxima explained the evidence, and that it had been advised by its lawyers that the right and proper thing to do was to tell him. He clearly did not agree, and said: ‘We are divided into functional businesses in this company, and I will speak to the manager concerned, and if he is interested, he will contact you.’ Maxima reiterated that it was prepared to pass over the information through its lawyers without obligation. But everything went silent.

Months went by until a multi-million-dollar bid was made for the European parent company. Maxima was approached by its lawyers, and through its own advisers handed over the evidence without charge or obligation. It should have been

sufficient for the company to recover at least £6 million and to rid itself of a very crooked senior manager. A year has gone by. The acquisition was completed, and the dishonest manager remains in place.

COMMENTS AND LESSONS: SIN 8

Not everyone can be convinced to do the right thing: this is especially true when the convincing is needed in the heat of the moment.

A Fraud Policy reduces the risks of perversely making bad decisions in the heat of the moment.

Sin 9: Blind Pugh's Law II

Once the suspicions of fraud have been aroused, there is a two-way obligation to resolve them: firstly, to the company to get the money back, and secondly, to clear people wrongfully suspected.

The first step is to establish the facts. The following case relates to poor or weak investigative processes. Sometimes, the greatest obligation is towards the person wrongly suspected.

THE BRAND MANAGER

Allegations were made against a senior and very successful brand manager to the effect that he had taken bribes for passing business to an advertising agency. His managers decided not to probe the allegations, believing incorrectly that an investigation would result in adverse publicity.

However, they transferred the manager to low-level work, but refused to explain why. He became depressed, and killed himself. At the inquest, the facts were revealed, the allegations were proven to be false, and the employer was heavily censured for its lack of action.

In this case, the company's decision not to investigate cost the life of a good employee, and it is usually the organization and honest employees that suffer the most.

COMMENTS AND LESSONS: SIN 9

Suspicions must be resolved by first establishing the facts.

Problems are not solved by ignoring them.

Sin 10: Going for Fool's Gold

Providing the crook will pay some of the money back and resign, some foolish managers are prepared to let the matter drop.

In some cases, as part of the deal, they will provide the crook with a nice reference so that he can defraud future employers.

The short-term attraction of grabbing back some money blinds managers to the long-term damage to the deterrence of dishonesty.

THE AGREEMENT	
<p>In 1997, a major company lost £5 million through a fraud perpetrated by a senior manager. He was caught by accident, and offered to pay back everything which had been stolen. The agreement between him and the company was drafted by lawyers as follows:</p>	
<p>THIS AGREEMENT is made this _____ day of _____ one thousand nine hundred and ninety eight</p>	
<p>BETWEEN XYZ Limited whose registered office is at 123 High Street, Nowhere ("The Employer") and; Bill Thief of 3 The Close, New Town ("The Employee")</p>	
	<p>WHEREAS</p> <p>A The Employee has admitted to fraudulently obtaining benefits in relation to his duties with the Employer</p> <p>B The parties have agreed that no action will be taken to prosecute or inform third parties of such admissions, including the police</p>
	<p>Despite the fact that the agreement was meant to be strictly confidential, many employees soon learned of it, and were horrified. To a few others, it was an invitation to defraud.</p>

COMMENTS AND LESSONS: SIN 10

Short-term decisions based on expediency usually corrupt principles.

In fraud, a bird in the hand is worth nothing in the bush.

If a crook offers to pay back what he has stolen, take it – but continue with the prosecution.

Deterrence is critical to good control.



'We can do them fast and good but not cheap, or cheap but neither fast nor good.'

Sin 11: Failing to Recover

By not making every effort to establish the truth, victims forfeit the chance of recovery.

The first step in every investigation must be to find the truth. When this principle is ignored, serious consequences can result.

BANKERS

An American bank incurred bad debts of over £30 million when one of its customers filed for bankruptcy and disappeared. The bank officer who had handled the account reported that the debts were irrecoverable. Subsequent

investigations revealed that the officer had received kickbacks of around £50 000 from the borrower on an earlier and paid-up loan. A substantial recovery, plus interest, was made from the bank's fidelity insurers.

COMMENTS AND LESSONS: SIN 11

In all but exceptional cases, there are always viable methods of recovery. Effective investigation identifies these.

If you don't look, you don't find.

Sin 12: Ultimate Gullibility

Managers will find every reason for not prosecuting – and if they can't find one they will make one up.

GOD'S LITTLE WONDER

Tommy Taylor stole £100 000 from ABC Ltd and admitted his sins to his manager. If anyone was facing a term of imprisonment, Tommy was – until God intervened. The day after making his admissions, Tommy and his tearful wife saw the Head of Personnel and explained that he had a terminal illness and was unlikely to live for more than a few months. A letter from his doctor – backed up by very bleak test results – confirmed the tragic news.

Human Resources, being nice loveable types, recommended that Tommy be allowed to resign and die in peace. Any

idea of prosecuting him was abandoned. In fact, he was given time (something of an irony under the circumstances) to repay.

A few months later, Tommy appeared on a national television show (*The Gladiators*), and was a picture of health. God had miraculously intervened with a miraculous cure, and six years later, Tommy is still alive and well, and probably still cherishing the letter supposedly from his doctor and test results that his wife had dutifully forged on her laptop computer.

Such miracles happen between the time the crook is detected and excused. If medical practitioners were able to identify what metaphysical changes take place in the bodies of crooks between detection and absolution, all health problems would be solved

COMMENTS AND LESSONS: SIN 12

Excuses should always be investigated.

The hardest line possible should always be taken with crooks as a deterrent to others.

Benefits of a Fraud Policy

An effective Fraud Policy and defined processes for handling investigations can eliminate all of the deadly sins and achieve the victim's objectives.

If you don't have a policy, now is the time to get one. It will be too late when it happens. The essential aspects are set out in Chapter 5.



'That was always your problem, Comer – too bloody self-opinionated!'