



CASE STUDY FORENSIC AUDIT AND CRIMINAL LIABILITY IN FRAUD CRIMES

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Abstract -The forensic audit is a mechanism that allows the investigation of internal or external financial fraud in all types of organizations, this tool allows interdisciplinary professionals to stop fraud, in recent years various organizations have been investigated for cases of corruption, a situation that has caused the diversion of resources that must be adequately managed by the executive officers of the companies, this situation will be negatively reflected in the development of the country. For this reason, it seeks to highlight through a case study on the application of forensic auditing as an allied tool for fraud detection, in a company, with the results of which seeks to reflect on the importance of forensic auditing in programs. law and accounting,

Keywords: Forensic Audit, Company, financial control, Public Accountant, Lawyer

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1. INTRODUCTION

The audit is a control mechanism that is exercised by a professional specialized in the matter in accordance with the audit line, among which is the financial, tax, internal control audit, among others. It is defined as the activity related to verifying whether or not the operating and financial situation of any particular entity adheres to the applicable regulations or policies. According to Rozas (2009), he points out that "the forensic audit is an audit specialized in obtaining evidence to turn it into evidence, which is presented in the forum, which in the author's interpretation are the courts of justice, with the purpose of prove crimes or settle legal disputes." (Rozas, 2009, p.1)

In this same sense, Polo and Vásquez (2014) state that it is an instrument to achieve an end, they establish that the Forensic Audit provides evidence to face the crimes of public servants, as well as employees in the private sector, in the same way Castro, R and Cano, M., (2002). It indicates that the "Audit specialized in discovering, disclosing and attesting to fraud and crimes in the development of public and private functions; This is how a wide space is opened to the field of investigation, which will go beyond the simple verification of fraud and crimes." (Castro, R. and Cano, M., p,2002,6), Alberto Mantilla in his work "Audit 2005" mentions the following: "Forensic Financial Audit is relatively new but increasingly important.

The present dynamism that develops in business activity makes forensic auditing specialize in efforts to detect and prevent fraud in financial statements. Over time, its field of action has expanded to the extent that it has modernized specific procedures for its fight against financial crime and works hand in hand with the courts of justice. Likewise, this technique is based on the skepticism of the auditor, based on the fact that all public entities are susceptible to some type of



fraud, which is why it is necessary to implement and apply a completely new set of techniques for detection and analysis. of this economic crime; the value of the test.

According to what has been stated, it can be noted that forensic auditing specializes in obtaining evidence in financial fraud, which is supported by the elements of financial auditing and forensic science, being an ally to the courts of justice. of nations because it makes it possible to contribute to the resolution of conflicts by providing pertinent probative material to judicial investigations of financial crimes. The results obtained in the KPMG study (2013), "analyzed the repercussions caused by fraud in Colombian companies, determining that almost 7 decades 10 companies operating in the country have suffered at least one fraud in the last twelve months, causing estimated costs for economic crimes of \$3.6 billion representing 1% of national GDP, where 51% of economic damage was caused by financial fraud." (KPMG 2013 p. 7)

The auditor's responsibility is very important because according to ISA 240, Institute of Accounting, (2013) states: "consequently, the auditor seeks sufficient appropriate audit evidence that fraud and error have not occurred that may be of importance to the financial statements or, if it has occurred, the effect of the fraud is correctly reflected in the financial statements or that the error is corrected. The probability of detecting errors is ordinarily higher than that of detecting fraud, since fraud is ordinarily accompanied by specifically planned acts to conceal its existence. (, Institute of Accounting, 2013, p.2)

Fraud is the act I consider immoral or illegal that is perpetrated by a person against another natural or legal person, consequently it can be identified in public entities acts Corruption, Nye (2003)," who states that a political act is corrupt when it is deviates from the formal duties of a public role, whether elective or appointed, due to private gain or gain of status or violates rules against the exercise of certain types of private influence" (Nye 2003,p2). In this sense, Donatella Della Porta (2001) points out that corruption arises when politics begins to attract individuals who want and can take personal advantage of public resources, that is, when the ideological politician is supplanted by the business politician.

- According to the ACFE Association or Certified Fraud Examiners, (2014): fraud is any activity or action with the purpose of personal enrichment through the inappropriate use of resources or assets of an organization by a person.

- According to the AICPA (American Institute of Certified Public Accountants, (2017): fraud is the "use of actions that seek to present to investors, analysts and/or the market an unrealistic situation of the Company in order to comply with the expectations of one or more of the interest groups." (AICPA American Institute of Certified Public Accountants 2017, p1):

- According to the IIA The Institute of Internal Auditors(2008): fraud is any illegal act characterized by deception, concealment or breach of trust. Frauds are perpetrated by individuals and organizations to (i) obtain money, property or services, (ii) avoid payment or loss of services, (iii) secure personal or business advantage.

2. BACKGROUND OF THE FORENSIC AUDIT.

According to CANO, Miguel and LUGO, Danilo (2005) Regarding the origin of forensic auditing, the first forensic auditor was probably the Treasury Department official who was seen on the tape The Untouchables, where an accountant unmasked mobster Al Capone in the 30s in the United States, however it is possible that forensic auditing is somewhat older, so old that it was born with the first law known as the Code of Hammurabi, the first document known to man that deals with laws; in them the legislator included regulations on Commerce, daily life, religion, etc. Obviously there was no double entry accounting because the Code of Hammurabi is from Mesopotamia, approximately 1780 BC and in its fragments from 100 to 126 it implies the basic concept of forensic auditing: proving a fraud or a lie with accounting documentation and comments are also made on profit and loss calculations in businesses for which an accountant should be used. Accounting has



existed for a long time, in fact they are found in museums, documents related to accounting records belonging to ancient Egypt and all the great civilizations of the past, however, forensic auditing is born when the legal is linked to the records, accounting evidence and with the first known legal document is the Code of Hammurabi, there it is exposed, for example, that if a merchant claims a payment made, he must demonstrate the receipt, of course, he would have his scribe or accountant who would present the receipt corresponding to the payment before the judge and would show that this was done. The Hammurabi Code then condemned the fraud or lie of those who denied having received the payment, making them pay up to six times the amount. (CANO, Miguel and LUGO, Danilo, 2005, p 30)

This discipline has its role in the criminal field due to its origin of procedural and criminal order, because its scientific application contributes to know the facts and reach the penalties determined by the judges, Bravo Huatuco, (2006), "The forensic auditor has as Main objective to carry out investigations through audit techniques to identify the types of fraud originated within the organizations, in order to generate a report, which allows the administration to take internal corrective measures or carry out a legal procedure against the fraudsters. "(Bravo Huatuco, 2006, p.1)

According to Rozas (2009), establishes that economic crimes have shown a regrettable increase in recent years. The ills that are glimpsed in the public sector in the countries, are the subject of the corruption of the high civil servants of the states, where the numbers of embezzlement of resources are of millions of pesos; anticipating in some cases, judicial procedures and economic sanctions; however, in some countries the legislation is harsh and others with soft legal aspects to the imputation of sanctions to the officials involved in fraud cases (According to Rozas 2009, p 3). For citizens who contribute to the public budget of their country, it becomes a daily issue regarding press reports issued by control entities in relation to cases that come to light,

According to the study carried out by KPMG (2013), some of the practices most used in Colombian companies to carry out fraud in financial statements are:

- “• Record of fictitious income to overstate the real behavior of the company and thus have, for example, a better position when negotiating a possible sale of the company.
- Register as a sale a movement of merchandise from one warehouse to another or not register returns of inventory, in such a way that a high level of sales is maintained and thereby obtain bonuses associated with "productivity" from senior executives.
- Recognize future income prospects as present income (for example those derived from long-term contracts or benefits obtained from financial instruments), to reflect short-term liquidity that ensures a more generous bank loan
- Register a present liability as a future expense in such a way that the income statements show higher yields and also lower liabilities, thus altering the ratios of the financial ratios presented to the shareholders of the company.
- Record the depreciation of an asset in a period of time greater than its estimated useful life, in such a way that the value of the assets shown in the books does not correspond to reality.
- Inaccurately registering or even not registering a contingency derived, for example, from a legal dispute that is estimated to be lost and, nevertheless, not recognizing it to affect the duties of doing and not doing ("convenient") with the creditor banks
- Register certain machinery as a pure lease instead of financial lease, (KPMG,2013,p.5)

3. Stages of the forensic audit process

In the article "Forensic techniques and auditing" by the authors: Ocampo, and Iván Trejos (2010) Buriticá shows that the forensic audit is carried out in the following phases:

- Phase 1- Planning: In this stage the forensic auditor: Knows the investigated case, analyzes



existing indicators, evaluates internal control, investigates what is necessary to prepare a report and define the forensic audit programs for the next phase.

- Phase 2- Field work: In this phase, the planned forensic audit activities and other investigative tasks that are required are carried out.
- Phase 3- Communication of results: in this phase the exchange of information will be constant with the people that the forensic auditor deems appropriate.
- Phase 4- Monitoring of the case: This part aims to ensure that the results of the investigation are in constant evaluation and the pertinent corrections are made if required by the case, (Ocampo, and Iván Trejos (2010, 17) This is shown in the following **figure No.1**

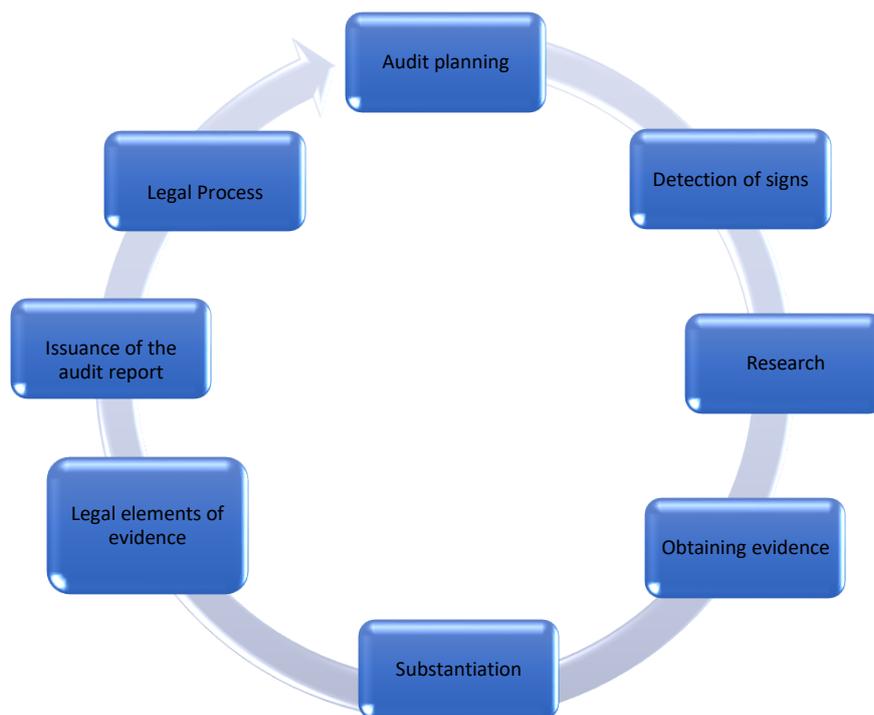


Figure No.1. Stages of the forensic audit process

In accordance with the above, the forensic auditor is responsible for investigating financial crime cases for which he has been formally and legally empowered by the management of the company or by third parties acting against the company. The coroner is responsible for:

- Plan the investigation.
- Run the investigation.
 - Evaluate the evidence collected.
 - Prepare the report agreed upon in the proposal.
 - Present and support your report.

In turn, each of these fraud categories is broken down into a multitude of sub-categories, as we show in the following graph in relation to the Fraud Tree, or occupational fraud and abuse classification system, developed by ACFE, (2014)in the following **figure No. 2.**

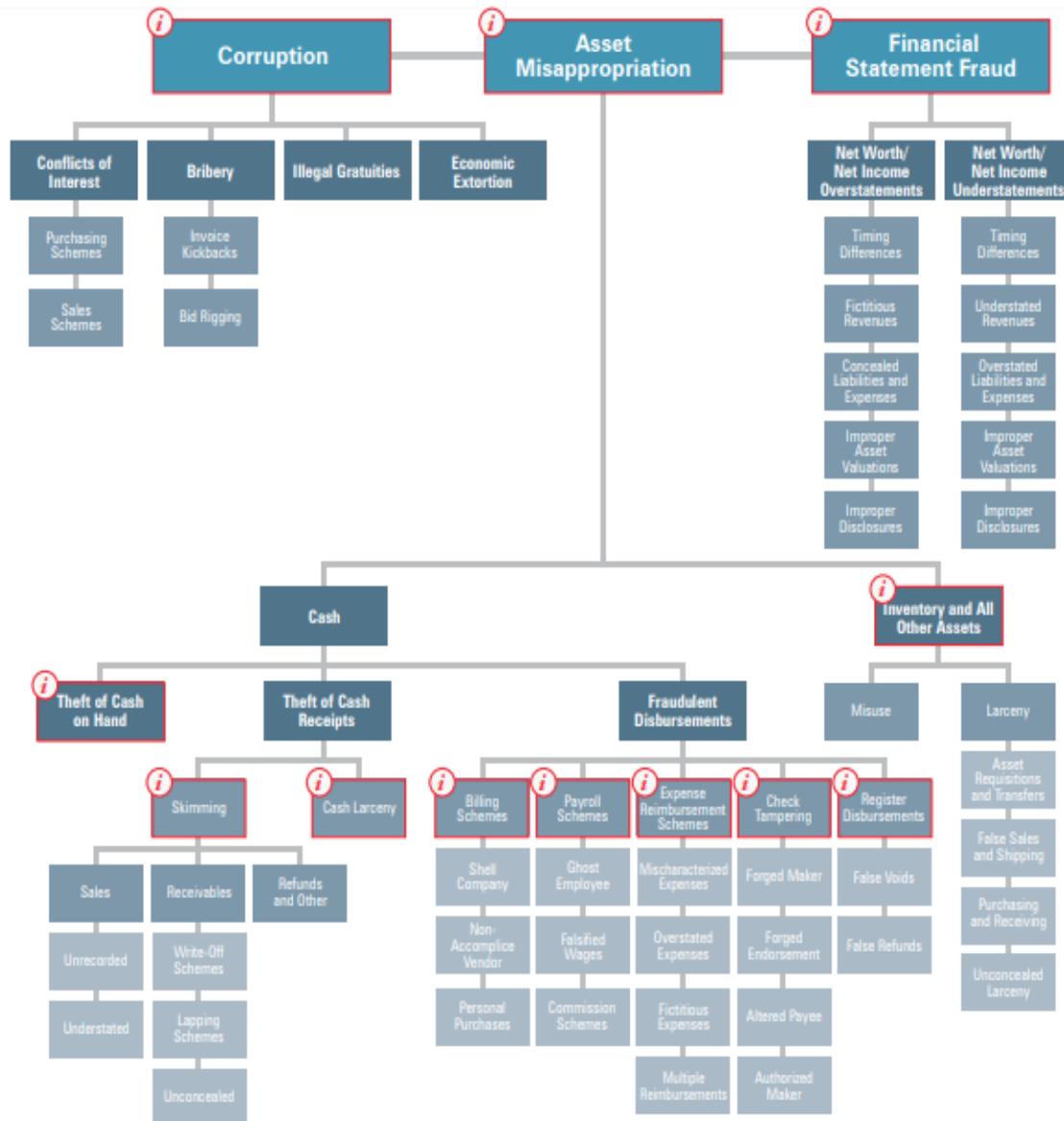


Figure No. 2. classification of occupational fraud and abuse,ACFE, (2014)

4. METHODOLOGY

The analysis is a mixed case study of research based on processes that allow observing the detection of corporate fraud, allowing to measure elements such as levels of execution.

For the methodological structuring, the choice of company information is based, the audit procedures were defined with the emphasis of interest where there was the presumption of fraud risks”, a filtering of results and reserve analysis of the tests in the organization. Staff interviews and research techniques were conducted.

5. RESULTS

The Dental company is a group of professionals that helps the community according to the needs to professionalize the management of your dental clinic using the best models of business strategy, patient care, marketing, human resources, coaching and training.



6. FORENSIC AUDIT ANALYSIS

AUDIT OBJECTIVES

1. Submit an accounting and economic report on the events that led to the possible diversion of resources from the resources managed by Mrs. ANA Benítez with the resources in fiscal year 2019, supported by the preliminary reports provided by the company, contribution documentary in physical and logical medium and scheme of forensic report made.
2. Issue forensic conclusions on the operations and supports evidenced

7. RULES APPLICABLE TO FORENSIC AUDIT

Currently there is no defined regulatory body where forensic auditing principles and standards are found, however, since this type of audit in accounting terms is much broader than financial auditing, by extension it must be supported by auditing principles and standards. generally accepted and especially in standards related to fraud control, prevention, detection and disclosure, such as SAS auditing standards No. 82 and No. 99 and the Sarbanes-Oxley Act.

8. AUDIT METHODOLOGY

In order to identify possible irregularities and diversion of resources in the operations carried out by Ms. Freya Johan Franco, who was acting as an employee. During 2019, a descriptive study of the events that gave rise to the possibly fraudulent activities was carried out, a methodology consisting of the following elements was established:

1. Definition and recognition of the problem.
2. Compilation of documentary evidence of an accounting, administrative and procedural nature.
3. Evaluation of the evidence collected, having as a starting point a preliminary report provided by the company's internal control office.
4. Preparation of the report with the findings, conclusions and recommendations

9. AUDIT TECHNIQUES USED

In the development of the activities, some of the methods of regular use of the audit are used, which include, among other cases, interviews, institutional visits, meetings, and these in turn show:

Documentary verification: Verification and systematization

Ocular Verification: Direct Observation and Validation

Record Verification: Analysis, reconciliation, confirmation

Verbal Verification: Personalized Interviews

Physical Verification: Comparison, tracking, selective review

10. HERE IS A SUMMARY OF THE FINDINGS BY AREA:

According to the tests carried out, in the verification of the physical supports of income and expenses that rest in the company, the following situations could be determined:

In the company, the billing is filed from the month of February to November 14, 2019; Due to the above, it was not possible to determine the billing for the month of January, November and December of the respective year with legal support, if not through an Excel list provided by the administration, which does not generate reasonable certainty of the balances for this audit. ; In several months, the lack of elaboration of income receipts and several inconsistencies in the non-



significant values of physical receipts with the extra-accounting file are observed. It is detailed in the following table inserts the summary of the extra-accounting file of the items mentioned above.

Table No. 1

Month	Revenues	Expenses	Profit
January	22.951.000,00	18.858.043	4.092.957
February	29.882.500,00	16.587.587	13.294.913
March	28.292.000,00	19.383.630	8.908.370
April	23.331.000,00	15.062.936	8.268.064
May	39.161.000,00	17.784.831	21.376.169
June	44.186.000,00	17.348.803	26.837.197
July	40.873.000,00	17.395.120	23.477.880
August	31.638.000,00	20.347.063	11.290.937
September	39.988.000,00	22.763.724	17.224.276
October	37.523.000,00	Without support	-
November	11.449.000,00	Without support	-
Total	349.274.500,00	165.531.737	134.770.763

Source (Created by the Auditor according to the information provided by the company)Own elaboration (2022)

Following the previous point, with respect to the proof of expenses for the periods of the fiscal year 2019, the elaboration of the expenses and/or purchase invoices that support the accounting is not observed, according to the extra-accounting relationship, the total expenses They amount to an approximate value of \$165,531,737, of which for this audit it was not possible to determine the reasonableness of this item.

It was not possible to circulate balances to third parties since payments were made in cash and the company does not have a file of supplier information.

According to the extra-accounting collection supports, there is evidence of a gross value of \$35,441,000, for the year 2019, of which once the collection from the clients was made effective, they were deposited in the bank account of the employee Freya Johana Franco with citizenship ID No. 1,064,992,969 in the Bancolombia savings account 790-0000356-59 and her husband José Contrera with ID No. 1,064,992,969 in the Bancolombia savings account No. 790,000,356-59, without the full authorization of Dr. ANA VIVIANA, a situation that could be evidenced with the ticket receipts that rest in the company.

It is important to mention that this series of related facts leaves an environment of "total skepticism" regarding the operations carried out since there is evidence of a clear misappropriation of company assets without measuring control situations, high economic risks.

In accordance with the documentary evidence delivered to this audit, we estimate that the total figures evidenced and reflected in the annexes to this report.

11. CONCLUSION

In accordance with the findings, it is possible to determine the possible intention of the worker to attack economic interests in search of a particular interest, since he evidently generated economic damage to Ms. Ana Viviana Céspedes Silgado, failing to comply with the procedures established by the same for the proper management of sales, the preparation of expenditure and

collection supports, in the same way the support of the administered resources, which is a notorious fact, since evidently he clearly had full knowledge of the instructions given through the mechanisms of knowledge that it uses in economic activity.

According to the tests carried out, a deviation of resources is estimated for a total value of \$349,274,500 estimated as follows:

Table No. 2

Concept	Worth
Unsupported outputs	\$165,531,737
Unrecognized business income	\$183,742.63
Total	\$349,274,500

Source: Own elaboration (2022)

Recommendations

It is recommended to perform monthly cash counts and monthly reconciliation of bank accounts.

Periodic review of the expense supports regarding their preparation and verification of the respective legal invoices that meet the minimum tax requirements. Manage company resources in a single checking or savings account. Carry out the collection procedure from Ms. Freya Johan Franco of the resources or manage a legal process. Any additional clarification will be answered with pleasure when they deem appropriate.

The scientific publication in cases related to forensic auditing in business areas is very low, in the US it is the country that invests the most capital in research on this topic, for many it could be an obvious aspect, however it should also generate tensions in Latin American and Colombian university institutions to invest and support research, thereby generating knowledge that results in the economic development of the country.

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