

FORENSIC RISK MANAGEMENT

Accountants and Bankruptcy Fraud

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Aside from income-tax cheating, the most common federal crime is bankruptcy fraud. The FBI estimates that 10 percent of bankruptcy cases involve fraud. If that is the case, in 2003, there were about 170,000 fraudulent bankruptcies. FBI statistics indicate that fewer than .1 percent of filers are convicted.¹ Until recently, bankruptcy fraud was prosecuted only sporadically.

In late 2004, the Department of Justice (DOJ) announced the launch of Operation Silver Screen, a task force effort aimed at targeting bankruptcy fraud. U.S. attorneys filed criminal charges against 21 individuals in 11 different federal district courts on a variety of federal bankruptcy counts. The cases filed involved the concealment of more than \$7 million in assets, illegal conduct by an attorney and a CPA, use of false social security numbers and false identities, submission of forged documents, false statements, and various fraudulent acts.² The operation reflects enhanced screening of bankruptcy cases by bankruptcy trustees for fraud and abuse.

Stronger enforcement of bankruptcy fraud laws will elevate the role played by fraud examiners

¹ Feldstein, S. 2004. Bankruptcy: Crime Pays. *Credit Card Management* 16 (11): 48.

² 'Operation Silver Screen' Targets Bankruptcy Fraud Throughout the United States. *U.S. Department of Justice News Release*, October 28, 2004.

and CPAs in investigating both civil and criminal bankruptcy fraud. CPAs, fraud investigators, and others may:

- Serve as an examiner or trustee;
- Serve on creditors' committees or represent creditors' committees by investigating the debtor's financial affairs and drafting investigative reports;
- Assist the Department of Justice and federal bankruptcy trustees by preparing detailed reports of investigations;
- Assist in recovering assets for creditors;
- Interrogate debtors who are under oath; and
- Serve as a private investigator to find hidden assets or examine the lifestyle of the participants in a bankruptcy or divorce.

Thus, it behooves CPAs and fraud examiners to familiarize themselves with some of the more important highlights of bankruptcy fraud.

The purpose of this column and the next one are to provide an overview of certain aspects of federal criminal bankruptcy law (this column) and discuss the most common bankruptcy fraud schemes (next column).

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