



Hot Tips - SUBJECTIVE AREAS IN A BUSINESS VALUATION

**New Jersey State Bar
Family Law Retreat
Costa Rica 2024**

Presented By: Jason M. Addesso, CVA



A WORD ABOUT OUR PRESENTER

Jason M. Adesso, CVA is a Partner in the Forensics, Valuation & Litigation Support (FVLS) practice at DLA Litigation Services, LLC (“DLA”) in Shrewsbury and Fairfield, N.J. Jason is responsible for day-to-day management of matrimonial litigation and business valuation engagements, tax consultation, and commercial litigation matters. He has 15 years of business advisory expertise including matrimonial and commercial litigation support, forensic accounting, business valuation, and tax consultation for estate, gift, and income tax purposes. He also advises on specific and complex tax issues arising from marital dissolution. His industry experience includes companies in the manufacturing, distribution, financial, real estate, healthcare, service and retail sectors. Jason has been a panel speaker and lectured on topics such as business valuation and matrimonial accounting.



Forensic Accounting - Overview

ROLE OF A FORENSIC ACCOUNTANT

Forensic accounting can be described as the process of:

- Analyzing, summarizing, and presenting financial issues
- Supporting the data for the user in a format suitable for the court

Services a forensic accountant may be asked to provide in a divorce include:

- Business Valuations
- Income Determination
- Lifestyle/Marital Spending Analysis
- Marital Balance Sheet Construction
- Asset Tracing
- Impact of Tax Issues
- Analysis of Corporate Benefits
- Assisting in Deposition and Trial Preparation
- Expert Witness Testimony



Business Valuation

INTERVIEW

Discussions with the attorneys and clients.

Obtain as much background information as possible, including perspectives as to the issues in the case.

DATA GATHERING

Request for specific documents, discovery, online research of the business and/or its owners, as well as economic and industry research.

This phase is usually continuous throughout the case.

SITE VISIT

Provides forensic accountants a way to confirm the accuracy of the data in an interview.

Address open items from preliminary review of documents and/or research, or to possibly discover additional information.

ANALYSIS & FOLLOW UP

Financial information and documentation is viewed with professional skepticism.

Adjustments are made on the income statement and balance sheet.

Normalize earnings and develop capitalization rates.

Balance sheet adjustments to reflect excess cash, collectible accounts receivable, the removal of non-operating assets.

SCHEDULES OR WRITTEN REPORT

Conclusions are communicated in a written report.

The written report must comply with the professional standards of a particular organization or governing body such as the AICPA, ASA, NACVA, IRS, etc.

Many times the written report can then be used to assist in settling the case or presented at trial.

STANDARDS, OBJECTIVITY & INTEGRITY

**Professional
Competence**

**Due
Professional Care**

**Planning &
Supervision**

**Sufficient
Relevant Data**

Client Interests

**Understanding
the Client**

**Communication
with the Client**



SUBJECTIVE AREAS – A CASE STUDY

CASE STUDY

Janis and Jimmy were married on October 24, 2004. A complaint for divorce was filed on August 1, 2023. Jimmy owns Kiss the Sky Guitars, a company he started during the marriage. Janis is a stay-at-home mother and was never actively involved in the business.

Kiss the Sky Guitars manufactures and sells guitars. The Company's operations are all run out of a building that Jimmy owns through a family partnership. Kiss the Sky Guitars pays \$10 per square foot in rent. It was determined that market rent is \$20 per foot. Jimmy pays himself a salary of \$200,000 per year and distributes all the profits at year-end. Jimmy leases his 2020 Ferrari through the company, which costs \$5,000 per month. Jimmy and Janis both have a corporate card that they use for personal expenses, including restaurants, vacations, entertainment and other activities. Although Janis never worked in the business, Janis was paid a salary of \$50,000 per year.

Kiss the Sky Guitars had the following financial performance over the past five years.

Janis and Jimmy each hire their own expert. We present the following case study to convey how changing subjective areas as determined by two different experts can change the value of a business.

	2019	2020	2021	2022	2023
Revenue	\$15,000,000	\$19,000,000	\$40,000,000	\$41,000,000	\$38,000,000
Gross Profit	5,000,000	6,000,000	11,000,000	12,000,000	10,000,000
Net Income	2,000,000	2,200,000	5,000,000	4,700,000	4,900,000
Depreciation	250,000	250,000	250,000	250,000	250,000



OVERVIEW

There are five key subjective areas that lawyers and experts should focus on when reviewing valuations:

1. Reasonable Compensation
2. Normalization Adjustments
3. Weighting of Earnings
4. Tax Rates
5. Company Specific Risk Premium and Long-term Growth, Discount, and Capitalization Rates

Changes in each of the above will cause the valuation results to differ (maybe significantly) between experts.



REASONABLE COMPENSATION

What would it cost me to replace the business owner(s) with an individual(s) who could perform all the functions at an equivalent level of that owner?

How did the expert gain an understanding of their knowledge, experience, and responsibilities?

Are there any specialized skills?

What sources did the expert utilize for suitable data?

Sources to utilize: ERI, Salary.com , MGMA, Altm an Weil.

Case Study

DLA determined that Jimmy's reasonable compensation was \$500,000 per year. Kiss the Sky Guitars already showed an expense of \$200,000. Therefore, a \$300,000 adjustment is required.

The Opposing Expert ("OE") determined that Jimmy's reasonable compensation was \$1,200,000 per year. Kiss the Sky Guitars showed an expense of \$200,000. Therefore, a \$1,000,000 adjustment is required.



REASONABLE COMPENSATION

DLA/Janis	2019	2020	2021	2022	2023
Net Income	\$2,000,000	\$2,200,000	\$5,000,000	\$4,700,000	\$4,900,000
Reasonable Compensation	(300,000)	(300,000)	(300,000)	(300,000)	(300,000)
Normalized Earnings	\$1,700,000	\$1,900,000	\$4,700,000	\$4,400,000	\$4,600,000

OE/Jimmy	2019	2020	2021	2022	2023
Net Income	\$2,000,000	\$2,200,000	\$5,000,000	\$4,700,000	\$4,900,000
Reasonable Compensation	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)
Normalized Earnings	\$1,000,000	\$1,200,000	\$4,000,000	\$3,700,000	\$3,900,000



NORMALIZATION ADJUSTMENTS

In addition to adjusting the compensation of the owner, there may be other adjustments necessary for non-operating, related party, discretionary, or non-recurring transactions.

What are the real earnings the company can generate and be reasonably expected in the future?

Consider items such as perquisites, accounting adjustments, fair market rent, and non-recurring items.

Case Study

DLA and the Opposing Expert both agreed that the rent was paid to a related party at below market rates and needed to be adjusted to the rental rate a fair market rate.

The Ferrari and Janis' salary were both non-operating expenses as neither was required to operate or generate Kiss the Sky Guitar's earnings. Both experts agreed on adjustments.

However, DLA and the Opposing Expert differed significantly on the amount of personal expense that Jimmy and Janis ran through the business on the corporate credit cards.



NORMALIZATION ADJUSTMENTS

DLA/Janis	2019	2020	2021	2022	2023
Net Income	\$2,000,000	\$2,200,000	\$5,000,000	\$4,700,000	\$4,900,000
Reasonable Compensation	(300,000)	(300,000)	(300,000)	(300,000)	(300,000)
Fair Market Rent	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)
Nonoperating Expenses	110,000	110,000	110,000	110,000	110,000
Discretionary Expenses	200,000	200,000	300,000	400,000	450,000
Normalized Earnings	\$1,960,000	\$2,160,000	\$5,060,000	\$4,860,000	\$5,110,000

OE/Jimmy	2019	2020	2021	2022	2023
Net Income	\$2,000,000	\$2,200,000	\$5,000,000	\$4,700,000	\$4,900,000
Reasonable Compensation	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)
Fair Market Rent	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)
Nonoperating Expenses	110,000	110,000	110,000	110,000	110,000
Discretionary Expenses	50,000	65,000	80,000	90,000	85,000
Normalized Earnings	\$1,110,000	\$1,325,000	\$4,140,000	\$3,850,000	\$4,045,000



WEIGHTED NORMALIZATION ADJUSTMENTS

Look for trends that may help predict the future with respect to the direction in which the company is headed.

These trends may indicate growing, declining, stable or volatile income streams.

Consider the underlying cause(s) for the trends and the likelihood the same rate will continue.

Straight-average, weighted-average, or hybrid.

Case Study

DLA analyzed the historical earnings and determined the most recent three years were the best indication of the company's future earnings as the Company's guitars were currently being used by a popular band, which was driving the recent demand and sales.

The Opposing Expert recognized the recent trend in earnings growth; however, the OE elected to also include the years prior to the band's rise in popularity under the assumption the recent growth would not be sustainable as the band was planning on signing a deal with a competitor.



WEIGHTED NORMALIZATION ADJUSTMENTS

DLA/Janis	2019	2020	2021	2022	2023
Normalized Earnings	\$1,960,000	\$2,160,000	\$5,060,000	\$4,860,000	\$5,110,000
Weighting	-0-	-0-	1	1	1
Weighted Avg Earnings					\$5,010,000

OE/Jimmy	2019	2020	2021	2022	2023
Normalized Earnings	\$1,110,000	\$1,325,000	\$4,140,000	\$3,850,000	\$4,045,000
Weighting	1	1	2	2	2
Weighted Avg Earnings					\$1,808,750



TAX RATES

New tax brackets and rates for personal income taxes will influence business valuations for small businesses organized as sole proprietors, partnerships, or S-Corporations.

Reduced federal corporate tax rate to 21% for all income levels.

Historically, C-corporations were taxed at much higher rates than individual rates charged on passthrough entities.

These changes narrowed the tax advantage of organizing as a passthrough entity as opposed to a C-Corporation.

Depending on business factors, one structure may be more advantageous than others.

Value-to-the-holder vs. hypothetical buyer.



TAX RATES

The discount rate is the required rate of return necessary to attract capital to an investment. The discount rate is commonly calculated using the “build-up method”.

The build-up method includes the following components:

- Risk Free Rate – typically the 20-year US Treasury Bond Yield
- Equity Risk Premium – historical large company stock returns minus risk free returns
- Size Premium – historical small company stock returns minus large company stock returns. For reference purposes, the supply-side vs. the historical side can swing the size premium in arriving at the discount rate
- Company Specific Risk Premium - This is a subjective percentage based on the valuation expert's determination

By removing long-term growth from the discount rate, it is used to convert future returns into an indication of value.

Long-term growth should be based on sustainable growth after stabilization. It will consider industry, geographic, and financial factors. Consider inflation.



COMPANY SPECIFIC RISK PREMIUM AND LONG-TERM GROWTH, DISCOUNT, AND CAPITALIZATION RATES

Case Study

DLA and the OE used the same risk-free rate, after that it was all different. DLA elected to use the “supply-side” equity risk premium, which reflects a more recent three-year trend in the equity risk premium calculation. DLA also chose to use the 10th decile for the size premium.

The OE utilized the “historical-side” equity risk premium, which reflects the total returns since the inception of the analysis. The OE elected to the 10z decile for size premium, which is a further breakdown of the smallest of the small companies.

Both experts utilized different Company Specific Risk Premiums and Long-term Growth Rates.

DLA/Janis	
Risk Free Rate	2.58%
Equity Risk Premium	6.04%
Size Premium	5.37%
Company Specific Risk Premium	3.00%
Discount Rate	16.99%
Long-term Growth	(4.0%)
Capitalization Rate	12.99%

OE/Jimmy	
Risk Free Rate	2.58%
Equity Risk Premium	7.07%
Size Premium	11.38%
Company Specific Risk Premium	6.00%
Discount Rate	27.03%
Long-term Growth	(2.0%)
Capitalization Rate	25.03%



CAPITALIZING EARNINGS

Show me what all of this means!

DLA/Janis	
Weighted Average Earnings	\$5,010,000
Less Taxes @ 30%	(1,503,000)
After-tax Income	3,507,000
Long-term Growth	4%
Net Cash Flow to Owner	3,647,280
Capitalization Rate	13.76%
Estimated Value	\$26,506,395

OE/Jimmy	
Weighted Average Earnings	\$1,808,750
Less Taxes @ 37%	(669,238)
After-tax Income	1,139,513
Long-term Growth	2%
Net Cash Flow to Owner	1,162,303
Capitalization Rate	25.03%
Estimated Value	\$4,643,640

The lower the capitalization rate, the higher the value of the company.
The higher the capitalization rate, the lower the value of the company.





What Questions Should Counsel ask their Experts?

Questions on Business Valuation?

- What assumptions did you rely upon?
 - Weighting
 - Reasonable Compensation
 - Working Capital
 - Capital Expenditures
 - Tax Rate
 - "Other" Income
- What information is outstanding?
- What are the components of normalized earnings?
- Are there non-recurring items?
- How did the subject company compare to industry data?
- How did you determine the capitalization rate?
- What is your specific company risk, and what is your basis to support your conclusion?



THE DLA STORY

DLA was founded in 2001 to provide clients a comprehensive suite of internal audit and accounting advisory services. Combined with a results-driven approach, as well as the experience, knowledge, and expertise of an established leadership team led by Big Four veterans, DLA serves both corporate clients and individuals.

The DLA team has always believed in the importance of building and earning trust in addition to cultivating strong relationships with those we serve. At DLA, we embrace the highest levels of integrity, dedication, and accuracy. By ensuring that quality and service are deep-rooted in our culture, high standards are instilled in our team and reflected in every engagement. Our clients appreciate and recognize our commitment.

KEY FACTS ABOUT DLA

- **Founded In 2001**
- Led by former members of the “**BIG FOUR**”
- A proven leadership team averaging **30 years of experience**
- One of the largest specialty **internal audit and accounting advisory** firms in the country
- **150 employees** located in the New York Metro area and Boston

- An **independent firm** without the Conflicts of larger accounting firms
- **Four operating segments:** internal audit, accounting advisory, forensic accounting, and staffing
- **Over 500 clients** in the real estate, financial services, banking, biopharma, technology, manufacturing, distribution, and fintech industries
- Former large-firm **Partners, CFOs, controllers and auditors on staff**
- Works with **all major accounting firms** and numerous law firms
- Provides **advisory services** to hundreds of **SEC registrants** and **privately held companies**

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Jason Addesso, CVA



Partner

Forensics, Valuation & Litigation Support Group

Jason M. Addesso is a Partner in the Forensics, Valuation & Litigation Support practice at DLA Litigation Services, LLC ("DLA") in Shrewsbury and Fairfield, NJ where he is responsible for the day-to-day management of matrimonial litigation and business valuation engagements, tax consultation, and commercial litigation matters. Jason has seventeen years of business advisory expertise including matrimonial and commercial litigation support, forensic accounting, business valuation, and tax consultation for estate, gift, and income tax purposes. He also advises on specific and complex tax issues arising from marital dissolution. His industry experience includes

companies in the manufacturing, distribution, financial, real estate, healthcare, service and retail sectors.

Prior to joining DLA, Jason was a Manager in the Advisory Services division of a large national accounting firm and has prior experience in the tax department for a national accounting firm. Jason has been a panel speaker and lectured on topics such as business valuation and matrimonial accounting.

Prior Work Experience

- Marcum LLP
- WeiserMazars LLP

Education, Certifications & Affiliations

- Monmouth University – B.S. in Business Administration, Concentration in Accounting
- Certified Valuation Analyst (CVA)

Marc Demetriou and Guaranteed Rate can offer borrowers great home loan lending options:

Borrower requirements start at¹:

- Minimum FICO score 560² on FHA and 550 on VA
- 1 year of tax returns
- 1 year of 1099s in lieu of tax returns
- Business bank statements in lieu of tax returns and income documents (great for borrowers that don't show a lot of money on their tax returns)

1) Eligibility requirements including, but not limited to, minimum FICO score and borrower documentation vary by loan type and investor. Talk to your loan officer for more information.
2) This minimum FICO score applies to government loans only. Please note that different loan programs have different minimum FICO score requirements.
3) Guaranteed Rate has no affiliation with the US Department of Housing and Urban Development, the US Department of Veterans Affairs, the US Department of Agriculture or any other government agency.

Eligible borrowers may still get a loan even if they³:

- Are late on mortgage in the previous 12 months
- Had a Chapter 7 or 13 bankruptcy or foreclosure recently
- Are divorced – ask your loan officer divorce expert for more information about using alimony as income
- Have properties held in trust (revocable/irrevocable)

3) Assuming borrower's loan is current, and they have not exceeded the maximum number of late payments within the time period required by their loan program. Restrictions apply.

Marc Demetriou and Guaranteed Rate can help borrowers:

- Get access to lending in all 50 states
- Borrow up to \$9.5 million
- Get 95% financing options on jumbo loans
- Get 97% financing options on conforming loans
- Exclude eligible debt paid by others for a minimum of 12 consecutive months from debt to income (DTI) calculations⁴
- Determine whether their loan program allows them to pay down debt at closing to improve their DTI for a purchase transaction.⁵

4) Additional documentation will be required and varies based on account type. Restrictions apply.

5) Not applicable to FHA loans

With special deals to:

- Medical professionals – 100% financing options
- Veterans and military personnel (100% financing & \$1,440 lender fees waived)⁶

6) Waived \$1,440.00 lender fee available for VA loans that have a triggered RESPA app date as of January 1, 2022 through December 31, 2024 at 11:59pm EST. This offer does not extend to Housing Finance Agency loans. 'Triggered RESPA' in accordance with Regulation X, is defined as lender receipt of all six pieces of information received in a secure format; applicant name, property address, home value, loan amount, income and SSN. Not all borrowers will be approved. Borrower's interest rate will depend upon the specific characteristics of borrower's loan transaction, credit profile and other criteria. Offer not available from any d/b/a or operations that do not operate under the Guaranteed Rate name. Restrictions apply.

Guaranteed Rate, Inc. is a private corporation organized under the laws of the State of Delaware. It has no affiliation with the US Department of Housing and Urban Development, the US Department of Veterans Affairs, the US Department of Agriculture or any other government agency.

Marc Demetriou and Guaranteed Rate offer borrowers:

- Hybrid Asset Depletion Program - borrowers with income may opt to use the Asset Depletion Program plus their income
- Renovation/Rehab Loans (FHA, VA and Conventional loan options)
- Interest-only loans
- Competitive adjustable rate mortgages and fixed rates
- Condotel and Non-Warrantable Condos

Applicant subject to credit and underwriting approval. Not all applicants will be approved for financing. Receipt of application does not represent an approval for financing or interest rate guarantee. Restrictions may apply, contact Guaranteed Rate for current rates and for more information.

Guaranteed Rate has no affiliation with the US Department of Housing and Urban Development, the US Department of Veterans Affairs, the US Department of Agriculture or any other government agency.

Contact me today to learn more!



Marc Demetriou, CLU, ChFC, CDLP

SVP of Mortgage Lending/Branch Manager

"The Mortgage Expert" • Ranked Top 1% of Loan Originators in America*

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*Ranked Top 1% of Loan Originators in America According to Mortgage Executive Magazine 2022



Marc Demetriou: The Divorce Lending Expert

Read what other Family Law Attorneys have to say about their experience working with Marc:

Marc has been a tremendous asset to my practice and more importantly to my clients. He is immediately available, incredibly knowledgeable and able to effectuate financing for a wide range of clients with differing economic parameters.

Mark H. Sobel, Esq.

Greenbaum, Rowe, Smith & Davis

This is hands down the best, most efficient, well put together mortgage company I have ever worked with. Every step of the process was thoroughly explained.

The staff was amazing to work with. Start to finish my refinance took less than 30 days. I can't say enough good things about the team I worked with.

Carrie S. Schultz, Esq

Schultz & Associates, LLC

Over the years, Marc helped many of my clients obtain mortgages or refinance their mortgage. He was always willing to answer any question and was prompt with responses. When it came time to get a mortgage myself, Marc was the first person I thought of. Marc and his team were quick and efficient, ensuring that we knew what we needed to do at every step of the way. We need to close quickly for the sellers, and they funded the loan by the deadline with no issue. Marc and his team were a pleasure to work with and made buying a home easy and as stress free as it could be!

Christine C. Fitzgerald, Esq.

Seiden Family Law, LLC

There is nothing better than when you give a client a referral for a service they need in this case a mortgage and they come back very happy. That's the result when you send people to Marc.

Paris P. Eliades, Esq

Paris P. Eliades Law Firm, LLC

I have worked with Marc for many years. He has helped many of my clients secure refinances during their divorce. His professionalism and ability to put my clients at ease especially during the tumultuous time of a divorce has been invaluable.

Terryann K. Bradley, Esq.

Laufer, Dalena, Jensen, Bradley & Doran, LLC

Marc possesses a wealth of knowledge that is invaluable in the field of home financing. Marc has taken the time to evaluate many of my client's individual financial circumstances and offered advice that has been priceless in the negotiation and settlement process. Because of Marc's advice, suggestions and guidance I have been able to achieve settlements for my client's which have enabled them to qualify for the financing necessary to be able to keep their children in their home. Marc is available to assist any client, whether the inquiry is pendent lite or post judgment.

Carmen Diaz-Duncan, Esq

Newsome O'Donnell

Marc is an SVP of Mortgage Lending & Branch Manager at Guaranteed Rate and is currently licensed in all 50 states successfully serving his clients in traditional and reverse mortgages. He consistently ranks in the Top 1% of mortgage originators in the U.S., according to leading industry sources Origination News, Mortgage Executive and Scotsman Guide. In his home state of New Jersey, Marc has been featured in NJBIZ's "40 Under 40" and is called upon frequently by the real estate, finance, accounting and legal communities as a trusted expert and speaker.

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guaranteedRate

CHAIRMAN'S  CIRCLE



By providing honest, responsible advice to clients, Marc and his team pride themselves on delivering a smooth mortgage experience to every client.

YOUR TRUSTED MORTGAGE LENDER

Low rates, great service and no surprises

Meet Marc Demetriou, CLU, ChFC, CDLP

Marc is an SVP of Mortgage Lending & Branch Manager at Guaranteed Rate and is currently licensed in all 50 states successfully serving his clients in traditional and reverse mortgages. He consistently ranks in the top 1 percent of mortgage originators in the U.S., according to leading industry sources Origination News, Mortgage Executive and Scotsman Guide. In his home state of New Jersey, Marc has been featured in NJBIZ's "40 Under 40" and is called upon frequently by the real estate, finance, accounting and legal communities as a trusted expert and speaker.

Additionally, Marc is a certified and licensed instructor, offering continuing education credits to accountants, real estate agents, financial planners and managed care professionals. Marc has been a keynote presenter at the Mastermind Summit, the mortgage industry's leading annual conference as well as many other summits and business events across the nation. He was also a co-host of WVNJ's popular "The Real Estate and Money Show". He has received national recognitions including being named as one of RISMedia's Real Estate News Makers in 2022 and 2021, National Mortgage Professionals' selection of "Top Most Connected Mortgage Professionals" in the U.S in 2021 and 2020, and was chosen to be one of Mortgage Professional America's 5-Star Top Originators for 2021.

He also received a Five Star Mortgage Professional award for superior customer service and professionalism in 2022 and 2021 from NJ Monthly Magazine as well as being selected as one of Fortune's 2022 Top 100 Market Leaders in the nation and Forbes Top 100 Market Leaders in the nation in 2021. Marc holds the following certifications and designations; Certified Divorce Lending Professional (CDLP), Chartered Financial Consultant (ChFC) and Chartered Life Underwriter (CLU).

Profoundly inspired by his grandfather's hard work and success, Marc has authored his first book—"Lessons from My Grandfather: Wisdom For Success in Business and Life"—which shares knowledge gained from his beloved mentor, Haralambos Georgiou Pistis, who was affectionately known to all as Charlie. From a very young age, Marc chronicled Charlie's experiences as an immigrant from Cyprus. In dedication, he now offers his grandfather's timeless principles for achieving success and leading a fulfilling life. Foremost, is the belief that success is a choice.

Marc graduated from Rutgers University/ Rutgers Business School with a Bachelors of Science in Finance. He presently resides in Montville, NJ and is a proud father of 3 daughters. Marc treasures the time he spends with family and friends and strives to regularly make a difference in the lives of others around him, both professionally and personally. He also finds inspiration in a quote by Henry David Thoreau: "Go Confidently in the direction of your dreams! Live the life you've imagined."

Marc Demetriou, CLU, ChFC, CDLP

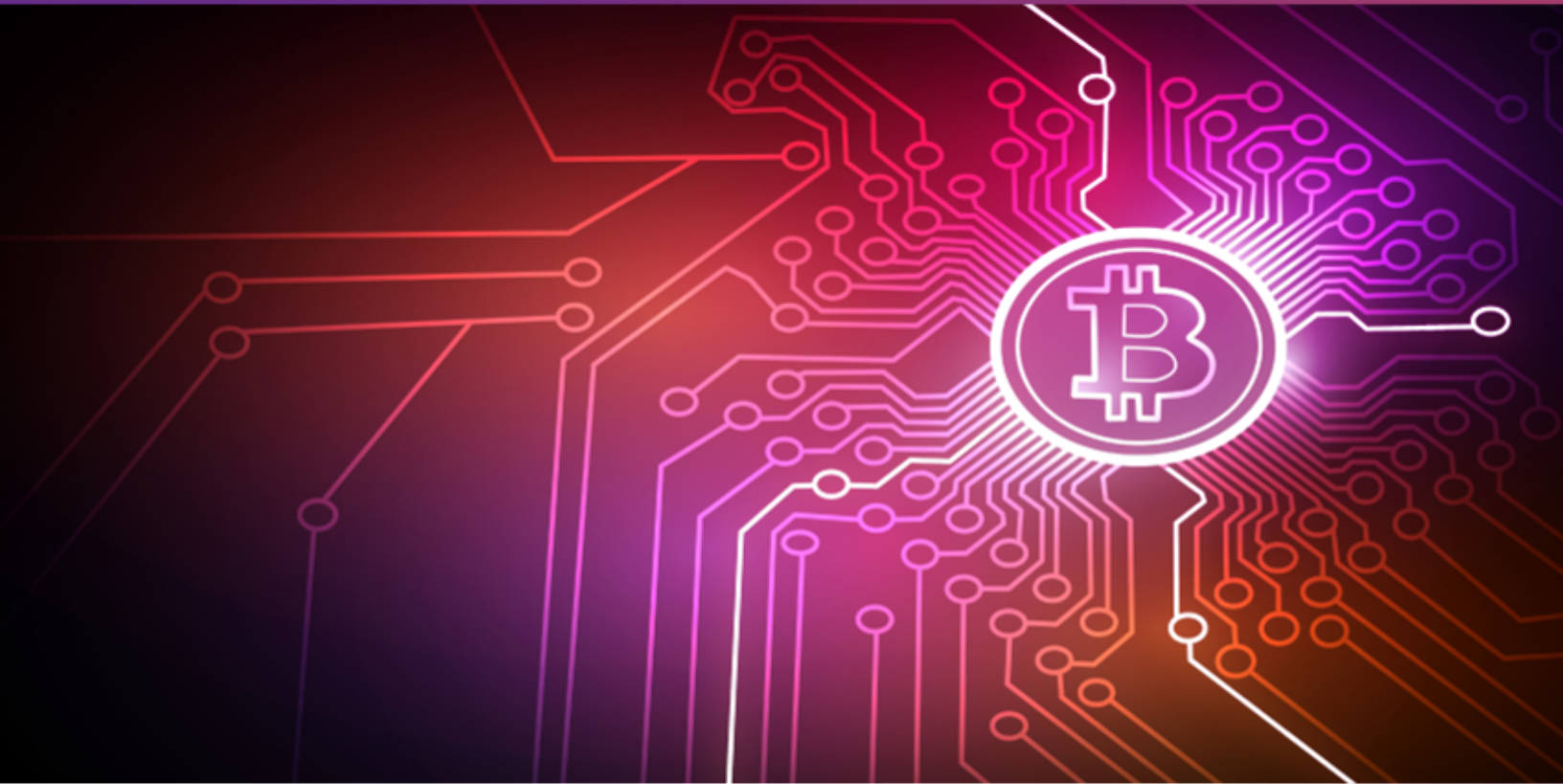
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Fraud in the age of virtual currency

Issued by the AICPA® FLS Fraud Task Force
Lead authors: **Katerina Gaebel, CPA, CFE, Certified DeFi Expert™,**
and **Mark DiMichael, CPA/ABV/CFF, CFE, CCFI**

Origins of cryptocurrency

Cryptocurrency, specifically bitcoin, was first introduced to the world in 2009 after the global economic crisis. Bitcoin developers wanted to empower individuals to initiate online transactions that were fast, irreversible, secure, anonymous, and performed without the involvement of a third party.

Fall 2022, Issue 4

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Cryptocurrencies such as bitcoin, ethereum, litecoin, dash, solana, and many more are digital assets that use encryption techniques to control the generation of units and publicly verify the transfer of funds via blockchain. Throughout this article we will refer to cryptocurrency and tokens collectively as "virtual currency" to be consistent with IRS terminology.

Blockchain

A blockchain is a public ledger of every transaction from the inception of an individual virtual currency.¹ Blockchains are protected from bad actors by being stored in a decentralized manner across many separate un-networked computers ("nodes"). These nodes work independently to validate transactions and reach a consensus before transactions are added to the ledger. The following chart conceptually shows the difference between a centralized system vs. a decentralized system.

Comparison	Traditional finance	Decentralized finance
Trust source	Financial institutions	Blockchain
Barriers to entry	High (strict regulations)	Low (open and transparent)
Geography limitations	Yes	No
Privacy	All customer information known	Pseudonymous
Business hours	Normal business hours	24/7
Transparency	Closed to public	Open to public

Individuals and companies around the world, called "miners," operate the nodes on their computers and IT infrastructure to track the virtual currency and validate all transfers to prevent double spending and the creation of unauthorized units. Miners will only allow funds to be spent by individuals that can produce the correct private key (essentially a secret password or digital signature used to spend virtual currency). This eliminates the need for a centralized, trusted third party, such as a bank. Additionally, users can remain semi-anonymous because the blockchain lists only addresses (similar to account numbers at a bank) and does not list any personal identifying information.

Miners are kept honest through profit motivation. The blockchain system is designed to make it more lucrative for miners to continue adding transactions to blockchain rather than to attempt to demoralize it or steal from its users.²

Virtual currency storage

Similar to physical currency, virtual currencies are also kept in a "wallet." However, as virtual currency has no tangible form, the term has a different meaning.

Virtual currency usage is controlled with a private key, a string of alphanumeric characters that acts as the password for spending virtual currency. To spend the virtual currency in a particular address, an individual needs to use the correct private key to initiate the transaction. As such, virtual currency is a bearer instrument that is essentially in the possession of anyone with the correct private key. If a private key is lost or destroyed, the individual will permanently lose access to the funds the private key protects. If a private key is stolen or copied by hackers, the hackers will have the ability to steal that virtual currency, and the original owner will have little to no recourse.

As a result, controlling one's private keys is critical. In the case of virtual currency, a wallet is simply a method for controlling one's private keys. There are several types of wallets:

- ▶ **Paper wallet** – A paper wallet is simply the act of maintaining private keys, public addresses, or wallet seed printed on physical paper. Although this is safe and effective for long-term virtual currency storage, it is not practical for individuals who regularly transact in virtual currency, as a computer/cellphone is needed to implement transactions.
- ▶ **Hardware wallet** – A hardware wallet is a password-protected electronic device that looks similar to a USB flash drive. A hardware wallet is specifically designed to generate and store private keys. A hardware wallet is generally immune to hackers because it is not physically connected to a computer or the internet.
- ▶ **Software wallet** – A software wallet is a phone or computer application that can generate private keys/public addresses and can interact to initiate transactions. Software wallets provide easy use and access to virtual currency funds but are potentially susceptible to hackers.

¹ While the idea of a blockchain was first used by Bitcoin, blockchain has many other potential uses that have nothing to do with cryptocurrency. For example, DeBeers uses blockchain technology to track and validate diamonds along its supply chain. In that case, blockchain is merely a record-keeping tool that would not necessarily result in any taxable transaction.

² Bitcoin miners are compensated for their work in the form of (a) transaction fees and (b) mining rewards, both of which are paid in the form of Bitcoin (not fiat currency).

Exchanges

Exchanges are third-party websites that facilitate the buying and selling of virtual currency. Exchanges generally control the private keys and users do not have access to the private keys. Instead, the exchanges initiate all transactions, and the user will merely have an account with that third-party exchange, like keeping one's money in a bank.

This concept is significant in the virtual currency ecosystem. The cryptocurrency private keys grant full control. Because of this, cryptocurrency circles have an often-repeated mantra: "not your keys, not your coins." If the exchange is hacked (as was Mt. Gox)³ or untrustworthy (as was QuadrigaCX),⁴ the users can lose their funds.

Types of virtual currency

- ▶ **Protocol tokens** – Protocol tokens are virtual currencies that exist solely as an asset for system participants. The best example of this is bitcoin. It is an asset unto itself. In bitcoin's case, there is no underlying asset that backs the virtual currency, and no right is conferred upon the owner of the token, other than the right to own a bitcoin.
- ▶ **Utility tokens** – These provide the holder with a right or privilege within a specific computer program or distributed ledger. The most well-known utility token in use today is ether. Ethereum is a decentralized global software platform (effectively a cloud computer that anyone can use). Utilizing the ethereum computing platform requires payment or transaction fees. These payments are made using a virtual currency called ether. As such, ether is a utility token that gives the spender the right to process a transaction on the ethereum network.
- ▶ **Nonfungible tokens (NFTs)** – Though a bitcoin unit is fungible with any other bitcoin unit, there are now virtual currencies where each unit is unique or is part of a limited collection. Most people are familiar with NFTs as digital art or PFPs (profile pictures for Twitter or other social media). But there is a wide range of uses for NFTs:
 - Music
 - Gaming
 - Domain names
 - Metaverse assets (land, buildings, clothing, and so on)
 - Tickets
 - Artificial intelligence

- ▶ **Tokenized assets** – This is virtual currency that confers a right to an asset. Essentially, this type of token could take the place of a stock certificate or a property deed, such as Propy (real estate) or Stobox (whisky).

Uses for blockchain and virtual currency

From a technical standpoint, virtual currency is nothing more than computer code, which is often open source. Therefore, anybody can create virtual currency. Over 20,800 virtual currencies exist.⁵ Because anyone can create virtual currency, not only can they use virtual currency in a manner in which they please, they can create it for a specific purpose and build in custom computer code (often referred to as smart contracts). This section discusses the different uses of blockchain and digital assets.

Virtual currency purchased and sold for investment purposes

Though bitcoin was originally developed to be used as a currency, since 2018, it more often has been used as an investment vehicle. Virtual currency is generally purchased and sold on virtual currency exchanges.

Virtual currency can also be traded between individuals and sold in a peer-to-peer fashion, which is less common. There are a number of derivative investment vehicles related to virtual currencies on exchanges as well.

Virtual currency usage as part of a trade or business

Many businesses operate in the virtual currency industry, including the following types of companies:

- ▶ Virtual currency exchanges and marketplaces
- ▶ Mining companies (individuals and companies that earn virtual currency as a reward for processing virtual currency transactions)
- ▶ Broker-dealers
- ▶ Companies that create virtual currencies
- ▶ Payment processing companies
- ▶ IT companies (security, coding, and so on)
- ▶ Consulting or outsourcing companies (marketing, legal, accounting, and so on)
- ▶ NFT issuers

³ Lawrence Trautman, "Virtual Currencies: Bitcoin & What Now After Liberty Reserve, Silk Road, and Mt. Gox?" *Richmond Journal of Law and Technology* 20, no. 4 (2014), <http://jolt.richmond.edu/v20i4/article13.pdf>.

⁴ "The Story Behind QuadrigaCX and Gerald Cotten, Netflix's 'Crypto King,'" *CoinDesk*, accessed October 5, 2022, <https://www.coindesk.com/learn/the-story-behind-quadrigacx-and-gerald-cotten-netflixs-crypto-king/>.

⁵ Per <https://coinmarketcap.com/>. As of September 2022.

Virtual currency spent on goods and services

Virtual currency is a unique asset in that, although it can be bought and sold like an investment, it can also be used like a currency and traded for goods and services. These types of transactions are common in the following circumstances:

1. Companies in the virtual currency industry paying contractors and suppliers
2. Purchases on the dark web
3. Payments for digital goods and services such as NFTs (discussed later)

Additionally, there are virtual currency debit cards, such as the Coinbase Visa Debit Card, which allows customers to spend bitcoin from their Coinbase exchange wallet accounts anywhere Visa is accepted. Visa and Coinbase handle the crypto-to-fiat exchange, and the merchant receives payment in their native currency. This type of transaction, from the perspective of the merchant, is the same as any other transaction. However, the customer paid with virtual currency.

Initial coin offerings/tokens

Initial coin offerings (ICOs) are a form of crowdfunding wherein a company, typically a tech startup, will raise capital by creating its virtual currency, referred to as a token. The company will then raise capital by allowing investors or future customers to purchase newly issued tokens with bitcoin or ethereum. The company can then liquidate its ICO proceeds over time to fund continued development of the project, pay employee salaries, and so on.

When performing an ICO, the issuing company will create a white paper. There are no standards for white papers, but they usually include information on the software, how the token works, how tokens can be purchased, the cost of the token, the development team, and the number of tokens the development team will keep. Once the token is issued, they can usually be resold on the open market and traded just like any virtual currency.

The SEC has initiated enforcement action against many ICO tokens, claiming that they are unregistered securities offerings. This is currently the subject of a number of lawsuits. The courts refer back to a 1946 court case, *SEC v. W. J. Howey Co.*, in which the U.S. Supreme Court established criteria to determine if an investment contract exists.⁶

The particular use cases and the rights that the token confers on the token holder can vary widely from token to token.

Ownership challenges

Virtual currency is a bearer-type instrument similar to cash. Therefore, the "ownership" of virtual currency can be more nuanced than traditionally owned assets. There are various challenges when it comes to the ownership of virtual currency, including the following:

- ▶ An individual who has lost a private key could be said to "own" a certain address holding virtual currency. However, those funds can never be spent if that individual cannot recover the key.
- ▶ An individual who claims to have lost their private key would still have ownership and control over a particular address; however, this would be impossible to prove unless the individual initiates a transaction on that address.
- ▶ If more than one person has the private key for a particular address, that address is effectively owned and controlled by multiple individuals, like a joint bank account.
- ▶ A hacker who steals someone's private keys can send the virtual currency on that stolen wallet to a wallet they own or control. Although they have it in their possession, it could be argued that they don't "own" it or have a legal right to it.
- ▶ Virtual currency addresses can be set up with multiple signature requirements, wherein multiple private key holders are required to digitally sign to initiate a transaction. This is often referred to as "m-of-n signatures," where m is the number of signatures required to initiate a transaction and n is the number of authorized signatories (for example, two signers required out of five authorized signers).

Most virtual currency exchanges follow "know-your-customer" (KYC) protocols. Therefore, records subpoenaed from them will likely be sufficient proof that a particular individual owned certain digital assets during the point in time when they were deposited or traded on that exchange. Many overseas exchanges may not be willing to respond to subpoenas. This can vary by country and exchange, so it is important to work with an attorney capable of obtaining records that can aid the investigation.

⁶ "Framework for 'Investment Contract' Analysis of Digital Assets," SEC, accessed October 5, 2022. <https://www.sec.gov/corpfin/framework-investment-contract-analysis-digital-assets>.

If the party owning and controlling a particular virtual currency address is the client or is willing (or compelled by the court) to work with the practitioner, they should not share their private key with the practitioner. Sharing the private key would show proof of ownership, but it would also allow the practitioner full access to the client's virtual currency. Because private keys should not be shared, there are two main ways to prove ownership:

- ▶ **The "Satoshi test"** – An individual who can initiate a virtual currency transaction at a date/time/amount specified effectively proves ownership of that address.
- ▶ **Verifying digital signatures** – Each virtual currency address has a public and private key pair. The pair of keys can be used to digitally encrypt and decrypt a message (private key encrypts and public key decrypts, or vice versa). The most common hardware wallets, Trezor and Ledger, allow for signing and verifying of messages with private keys. Many software wallets allow this function as well.

Crimes involving virtual currency

For purposes of this article, we categorize and provide a brief overview of some of the more common crimes. However, there are a number of crimes not discussed in this article.

Investment scams

Investment scams can be perpetrated through several different avenues. Although the avenues are different, the outcome is the same: the scammer is attempting to steal funds through a user interface.

- ▶ **Fake wallets** – Malicious software that appears to be a virtual currency wallet. When a user interacts with this software, it typically will send the virtual currency directly to the scammer.
- ▶ **Fake exchanges** – Websites that appear to be a legitimate virtual currency exchange. When a user interacts with the website and sends virtual currency to it, the funds are being transferred directly through the scammer, or subsequently withdrawn from the fake exchange to a subsequent wallet controlled by the scammer.

- ▶ **Cloud mining scams** – Cloud mining companies allow individuals to earn virtual currency by mining it using cloud servers. Users effectively pay a third party to use their cloud servers to mine virtual currency. Many legitimate companies like this exist, but some may take funds from a victim and offer nothing in return or may pay a fraction of what should be paid to the victim.
- ▶ **ICO fraud** – As discussed previously, a company will create new virtual currency tokens for an unfinished software platform or application. Although this is a common business model, scammers often create worthless tokens, promise massive future increases in value, and then run off with the proceeds. The SEC even created a fake virtual currency of their own to illustrate the common red flags of ICO fraud.⁷

Traditional crimes performed with virtual currency as a means of payment or transfer of value

- ▶ **Sales of illegal goods and services** – The "dark web" is littered with websites using virtual currency as a means of payment for drugs, untraceable firearms, stolen personal information, and more.
- ▶ **Ransomware** – Malicious software that will attempt to encrypt the data of computers and other computers on the same network. Once the data is encrypted, those computers and the data on them will be rendered useless. There will generally be only two ways to recover: (1) wipe the computer and reinstall from a backup; or (2) pay a ransom to the hackers (generally payment is requested in Bitcoin).
- ▶ **Concealing assets (matrimonial, bankruptcy, and so on)** – Concealing any type of asset during a divorce or bankruptcy is illegal, but bitcoin and many other virtual currencies have an ecosystem of secrecy built around them, making them a useful tool for individuals who wish to hide assets.
- ▶ **Tax fraud** – There is a common belief that virtual currency is untraceable, and many individuals believe that their profits are beyond the reach of the law. That assumption is incorrect, and the IRS has been putting extensive efforts into catching crypto tax cheats including successful subpoenas to virtual currency exchanges,⁸ working with a blockchain analytics company called Chainalysis.⁹

⁷ <https://www.howeycoins.com/index.html>.

⁸ "Court Authorized Services of John Doe Summons Seeking Identifies of U.S. Taxpayers Who Have Used Cryptocurrency," U.S. Department of Justice, May 5, 2021, accessed September 28, 2022 <https://www.justice.gov/opa/pr/court-authorizes-service-john-doe-summons-seeking-identities-us-taxpayers-who-have-used-1>.

⁹ Evan Davis, "The IRS Confirms Its 'Great Eye' Is Firmly Fixed on Cryptocurrency, Announcing 'Operation Hidden Treasure,'" Taxlitigator.com, April 10, 2021, accessed September 28, 2022. <https://www.taxlitigator.com/the-irs-confirms-its-great-eye-is-firmly-fixed-on-cryptocurrency-announcing-operation-hidden-treasure-by-evan-davis/>.

Crimes to steal virtual currency keys

- ▶ **Hacking** — Virtual currency software wallets “should” be secure but may not be. Any keys or seed phrases stored in unencrypted files are easy pickings for an experienced hacker. This may be done by injecting malicious software onto a hacked device, or a phishing attack.
- ▶ **Phishing attacks** — Malicious emails, designed by posing as a trusted website or application, to trick a victim into clicking on a link that will install malicious software or trick the user into providing a password or seed phrase to the attacker.
- ▶ **Physical violence** — There have been instances in which criminals have physically assaulted or tortured individuals until they provided access to their virtual currency wallets.¹⁰ Because of this, it is advisable for an individual with large holdings to keep a readily accessible wallet for day-to-day use, and a separate, longer-term storage wallet that is not readily accessible.

Virtual currency mining crimes

- ▶ **51% attacks** — The mining process is designed to be a decentralized process where no individual has the power to manipulate the system. However, if one individual or a group consolidates enough computing power, they can effectively hijack a blockchain for a period of time. Although virtual currency funds will remain safe overall, the attacker can “double spend” their coins during a 51% attack by selling their coins, effectively overriding the transaction as if it never occurred.
- ▶ **Theft of power for mining** — Miners’ largest ongoing expense is generally their energy bills. Because of this, many individuals have attempted to illegally increase their profit margin by setting up mining computers in a location where the electric bill is paid by someone else.
- ▶ **Software miners or cryptojacking** — Malicious software installed on a victim’s computer. This software uses the victim’s computing power to attempt to mine virtual currency for the attacker’s benefit.

Asset tracing

Although virtual currency is believed to be anonymous, there are a number of ways a practitioner can trace virtual currency.

The criminal’s toolbox

When tracing virtual currency, a criminal can make it more difficult to trace their activity by using various techniques, including the following:

- ▶ **Multiple addresses and wallets** — It is common for virtual currency wallets to create a new address for every transaction. As a result, a criminal can have hundreds or thousands of addresses. Though investigators can attempt to link these addresses to common ownership through blockchain analysis, the task is arduous, and cannot always be done with 100% certainty.
- ▶ **Mixing services** — Individuals can also use mixing services to assist in obscuring their transaction history. Mixing services generally use an algorithm to “mix” virtual currency by transferring original coins through multiple addresses to obscure the trail of funds. Eventually, the mixing service deposits the “clean” coins to a new account controlled by the intended user. Mixing services can act as “fee-for-service” money laundering providers for criminal proceeds, but law-abiding privacy-minded individuals can use mixing services as well. Anonymizing wallet software has a built-in mixer function.
- ▶ **Privacy coins** — Certain virtual currency referred to as privacy coins have built-in anonymity features as well. Examples of these include Monero, Verge, and Z-Cash. Each privacy coin has different features, such as obscuring amounts on the blockchain, creation of dummy addresses on the blockchain, one-time-use addresses, and automated coin mixing.
- ▶ **Exchanges and dark exchanges** — Though an investigator can trace transactions on the public blockchain, the trail is usually broken when a criminal deposits funds onto an exchange, because the deposited funds are then commingled with funds of other users. A subpoena to the exchange can allow the investigator to continue the analysis, but many “dark exchanges” that operate out of other countries will not respond to a lawful subpoena. The same problem is often true for transfers of virtual currency to gambling websites.

¹⁰ Jordan Lyanchev, “Tuenti’s Founder Tortured to Reveal His Bitcoin Private Keys (Report),” CryptoPotato, November 3, 2021, accessed September 28, 2022. <https://cryptopotato.com/tuentis-founder-tortured-to-reveal-his-bitcoin-private-keys-report/>.

► **Chain hopping** – Once a criminal deposits funds onto an exchange, they will often chain-hop. Chain hopping refers to a process whereby an individual deposits a virtual currency into an exchange, and then trades that virtual currency for another type of virtual currency. Tracing crypto assets through multiple exchanges is difficult without data from the exchange.

► **Cash transactions** – Finally, although most purchases and sales of virtual currency occur on exchanges, individuals can easily trade virtual currency for cash, effectively trading one semi-anonymous asset for another. This can make the trail particularly difficult to trace. Even online services that match up buyers and sellers, some of which may be difficult or impossible to subpoena for information.

Where to find evidence

Low-tech

► **Reviewing bank and exchange records** – An individual's first entry into virtual currency often involves purchases on exchanges, with funds transferred from the individual's bank account. This is often an easily located starting point for an investigation and first round of subpoenas to exchanges.

► **Document review** – Past accounting records, tax returns, business contracts, emails, and other documentation may provide information on virtual currency transactions. Historical mortgage or loan applications can also be useful in an investigation. When individuals apply for bank loans, they generally provide a net worth statement or balance sheet listing their assets. An individual might declare crypto assets in a mortgage application (attempting to convince the bank to loan them money) but then attempt to hide those same crypto assets from a divorce or a bankruptcy court.

► **Physical searches for information** – Virtual currency users maintain "backup seeds" for their virtual currency in case the electronic devices containing their virtual currency wallets are lost or destroyed. Backup seeds can restore an individual's virtual currency wallet and are often kept offline for security purposes. An investigator can potentially search an individual's residence or workspace to search for evidence of this type. Paper wallets, hardware wallets, computers, cell phones, laptops, or USB drives can be found during the search.

► **Subpoenas to exchanges** – Most purchases and sales of virtual currency occur on exchanges. U.S.-based exchanges will generally respond to subpoenas. The exchanges can provide information on all the user's transactions on that exchange, as well as any addresses to which the virtual currency was forwarded.

High-tech

► **Forensic analysis of electronic devices** – Because virtual currency is digital, it often leaves a footprint on electronic devices. Computer forensic experts can pull information off cell phones, computers, and other electronic media for analysis. This can potentially reveal evidence of exchange usage, transaction history, and even wallet files that may contain the private keys to seize the criminal's virtual currency. Investigators can use emails for evidence of withdrawals from virtual currency exchanges or as evidence of ownership.

► Blockchain analytics

– **Clustering** – Virtual currencies generally have public blockchains that are readily available to an investigator. Investigators can review blockchain data to establish addresses that have likely common ownership of addresses.

A **co-spent** transaction refers to one that has two different virtual currency addresses as inputs. "Co-spent addresses" share a common owner because the transaction must have been initiated by an individual who controls both input accounts (with very rare exceptions). The process of identifying co-spent addresses is referred to as "clustering" addresses.

Investigators can also create clusters by identifying "change addresses." The **change address** concept is analogous to purchasing \$15 worth of groceries with a \$20 bill. The purchaser spends the \$20 and receives \$5 back as change. That type of transaction is visible on the blockchain, and an investigator can often identify that the individual still has control of the change, or use the change address to further trace the path of the virtual currency.

- **Address attribution research** – An investigation may uncover virtual currency addresses that were previously unknown and not linked to any known party. The investigator may be able to find ownership information through web searches, dark web searches, or websites that provide information on address ownership such as bitcoinwhoswho.com, oxt.me, walletexplorer.com, and others.
- **Blockchain transaction visualization software** – Criminals often create a chain of transactions, moving coins from address to address before recombining funds to “cash out.” This creates a difficult trail for investigators to follow. Programs and websites such as www.oxt.me, Numisight, and Maltego can create flowcharts to help investigators visualize the flow of funds as they move between addresses. Additionally, many companies perform blockchain analytics as a business model: Chainalysis, Cipher Trace, Qlue, Elliptic, Elementus, and more. These companies generally offer subscription services to access their software and database and provide assistance with all three aspects listed previously (clustering, address attribution, and transaction visualization). A subscription to these services can be expensive, but these “big data” companies will have more blockchain attribution information than you can find on your own.

Asset seizure

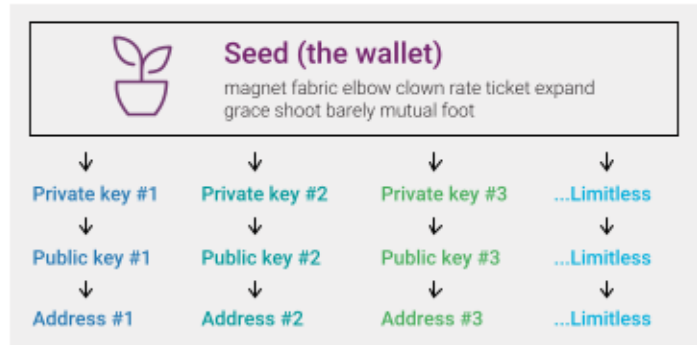
Seed phrases

The holy grail of virtual currency investigation is finding the seed phrase of the target of the investigation. A practitioner who uncovers the target’s seed phrase will be able not only to view the transactions on the related wallet but also to initiate transactions in the wallet (disregarding the legality of doing so, which is discussed later). Though this could be a huge triumph for the investigation, the target may have more than one set of seed phrases under their control.

The same is potentially true for finding their hardware wallet. A hardware wallet can have a seed phrase programmed into it, but they are generally password-protected. A hardware wallet will be useless without the associated passphrase.

How seeds work

Most hardware and software wallets are “hierarchical deterministic” wallets (HD wallets), which are generally considered the best tradeoff for security, key management, and ease of use. HD wallets start with a single randomly generated seed phrase that is generally 12, 15, 18, 21, or 24 words. Those seed words are then mathematically modified through multiple “hash functions” to create private keys, public keys, and addresses. Although the process is somewhat more complicated than this, a simplified illustration is as follows:



As the private keys, public keys, and addresses are all mathematically determined from the seed phrase, the process of key generation is replicable by wallet software, so keys do not need to be stored or tracked on an individual basis by the user.

Virtual currency seeds are highly versatile due to the following factors:

- ▶ They can create an infinite number of addresses and public/private key pairs.
- ▶ One seed can hold many types of virtual currency (potentially thousands).
- ▶ They can be used with an additional security feature called a “BIP 38 password,” which effectively puts another level of encryption on your seed; the seed is useless without the password.
- ▶ HD wallets generate addresses and public/private key pairs through software code application of a “derivation path.” Most virtual currency wallets allow use of modified or custom derivation paths. If a virtual currency owner modifies the standard derivation path, this could prevent an investigator from using the seed in a useful manner (as could a BIP 38 password).

Legal issues

As previously mentioned, the ability to control a virtual currency address and legal rights/ownership is tricky. If an investigator uncovers seed words, they should immediately secure them and speak with an attorney regarding next steps. They should also search the immediate area for further evidence (such as a BIP 38 password possibly stored nearby).

Depending on the jurisdiction and the facts and circumstances of the case, the investigators may have the right to seize any virtual currency accessible through that seed by moving it to a wallet controlled by another party or the court. This is a legal determination.

Practical issues

There are several practical issues the investigator should consider before accessing seeds:

- ▶ What wallet software(s) will be used to check for virtual currency?
 - Seeds have the potential to hold many different types of virtual currency, and it will be impossible for the investigator to check if the seed contains all of them.
 - Lesser-known virtual currencies may not be accessible using more commonly used wallet software. Some may only be accessible through the original wallet native to that virtual currency.
 - What wallet software did the target of the investigation use?
 - Many virtual currency tokens may be worthless or immaterial.

- ▶ How is virtual currency seized?
 - Should the virtual currency be transferred to a wallet controlled by an attorney? Or a wallet controlled by the court?
 - How will that wallet be managed? Will it be a multiple signature wallet?
 - It is highly recommended that the virtual currency be transferred to a new wallet. Simply securing the seed words does not guarantee that the virtual currency can't be used (the individual may have a backup seed phrase copy, or an associate with access to the virtual currency).

- ▶ How much virtual currency can legally be seized?
 - This varies by jurisdiction.

- ▶ Should the virtual currency be kept in its native form? Or sold immediately for U.S. dollars or some other fiat currency?
 - Many virtual currencies may not be readily saleable except on a limited number of exchanges. Some may not be listed on any exchanges at all.
 - Some insurance companies offer insurance for virtual currency. This could be considered as well.

- ▶ Practice and planning
 - Investigators should always access seeds with a second investigator present.
 - Investigators should know how to use, and practice beforehand with, any necessary wallet software to avoid problems during the seizure process.
 - When sending large amounts of cryptocurrency to a new address, a small test transaction can be initiated to verify the process is working as intended.

Case studies

ICO fraud

A group of individuals were swindled out of their retirement savings when they invested in a fake ICO for a new token that was purported to be usable on a new virtual currency exchange. An investigation was performed, and a report of the findings was provided to the court.

The investigation uncovered that the entity that created the new tokens had not been registered to do business in the state. The forensic accountant performed internet searches on the investment and discovered that most relevant links were either outdated or removed, and the ICO project did not appear to be active.

During the investigation it was verified that the new token was in fact created on www.etherscan.io. It was an "ERC-20" token, which piggybacks off the Ethereum blockchain and does not need its own set of miners. However, that token did not have the built-in functionality that was promised, and the exchange it was to be used on did not exist.

Although the plaintiffs were based in the United States, the Facebook page for the token stated that the token was "not available for US investors." The Facebook page had many advertisements for the new venture, but within a month

after the token sale date, the Facebook page was never used again. The project team, noted on the social media page, was contacted and informed investigators that the CEO of the project had dropped it and never paid him.

Corporate theft asset tracing

A fraudster had stolen approximately \$20 million from a global alcoholic beverage distributor. The fraudster was arrested, and claimed that the stolen funds were gambled away. With cooperation from the fraudster, a computer forensic expert examined the individual's home and work computers. The computer data, along with subpoenaed cryptocurrency exchange records, were provided to the forensic accounting team. In addition, the forensic accountants interviewed the fraudster, who was in prison, at the start of the investigation.

The initial analysis traced virtual currency from the fraudster to over a dozen exchanges. The forensic accountant traced most of the blockchain transactions and engaged Cipher Trace, a blockchain analytics company, to assist with certain transfers. In addition to the tracing of assets, multiple rounds of subpoenas were sent to exchanges, both domestic and abroad.

The computer forensic expert found over two dozen virtual currency seeds on the fraudster's computer. The forensic accountant successfully viewed the activity on some of the seeds, while other seeds were determined to be "invalid."¹¹ This was perplexing. Why would the fraudster keep a seed that's incorrect?

During a second interview, the fraudster mentioned that they used many different types of software wallets, one of which was Electrum. Upon further investigation, the forensic accountant uncovered that Electrum, by default, uses nonstandard seed phrases (that appeared to be invalid in the other wallet software the investigators had attempted to use). All of the seeds were checked again using the Electrum wallet software. The seed phrases didn't contain any remaining virtual currency, but the wallet software did allow forensic accountants to view all of the transaction history on that seed and build out a much more complete picture of the fraudster's activity.

Ultimately, the forensic accountant found that the funds transferred to two gambling websites exceeded the amount of the theft. The forensic accountant made attempts to

obtain records from the gambling websites to determine if the funds were in fact lost, but those websites were based overseas and did not respond to subpoenas. Though there were additional unknown transfers that could have been investigated, the client decided that the likelihood of recovery appeared too remote to continue the investigation further.

Practice tips

- ▶ Don't get wrapped up in the terminology. The old accounting, tax, audit, and other legal/fraud concepts the practitioner already knows will generally still apply.
- ▶ Be careful when working with virtual currency seed phrases. Virtual currency transactions are irreversible.
- ▶ Persistence is key. A virtual currency investigation will generally require multiple rounds of subpoenas and multiple follow-ups for documents. It's a marathon, not a sprint. Start the investigation as early as possible.
- ▶ An individual can hold an unlimited number of wallets, with an unlimited number of addresses. The practitioner can never be sure if they have uncovered all an individual's virtual currency holdings.
- ▶ In larger investigations, the number of addresses could be in the hundreds or thousands. Examining those transactions on the blockchain manually will generally be impractical. It pays to have someone on the investigation team who can write computer code to automate blockchain data extraction through application programming interfaces (APIs).

¹¹ Standard cryptocurrency seeds have a built-in "checksum" wherein not all random 12-word strings of text are valid.

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Forensic and Valuation Services Manager

Industries: Forensic Valuation and Litigation Support

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Katerina Gaebel is a Forensic and Valuation Services Manager at Smolin, Lupin & Co., LLC. She is a licensed Certified Public Accountant in New Jersey and New York.

Katerina Gaebel, CPA, specializes in forensic investigations, cryptocurrency tracing, matrimonial disputes, shareholder disputes, and economic damages. She holds certifications as both a Certified Fraud Examiner and Certified DeFi Expert (certified by the Blockchain Council).

As a member of the New York State Society of CPA's (NYSSCPA), Katerina was named one of the "Emerging Leaders Under 40!" She is a graduate of the University of Albany with a master's in forensic accounting. Katerina works out of the Smolin Fairfield, New Jersey Office.

B. LAUREN INVESTIGATIONS

Proving Cohabitation in a Post Alimony Act Era

Presented by: Bari Kroll



Our Agenda for Today



- Defining Cohabitation and Trends in Alimony
- Alimony Reform Act of 2014
- Meeting your burden and “The Prima Facie”
- Case Study
- Attorney Client Considerations
- The Attorney/Private Investigator Relationship

To live together as or as if a
married couple

MERRIAM-WEBSTER

A living arrangement in which an
unmarried couple lives together in a
long-term relationship that resembles a
marriage

THE LEGAL DICTIONARY

”

Pre 2014 Trends in Alimony



ALIMONY IS AN “ECONOMIC RIGHT”

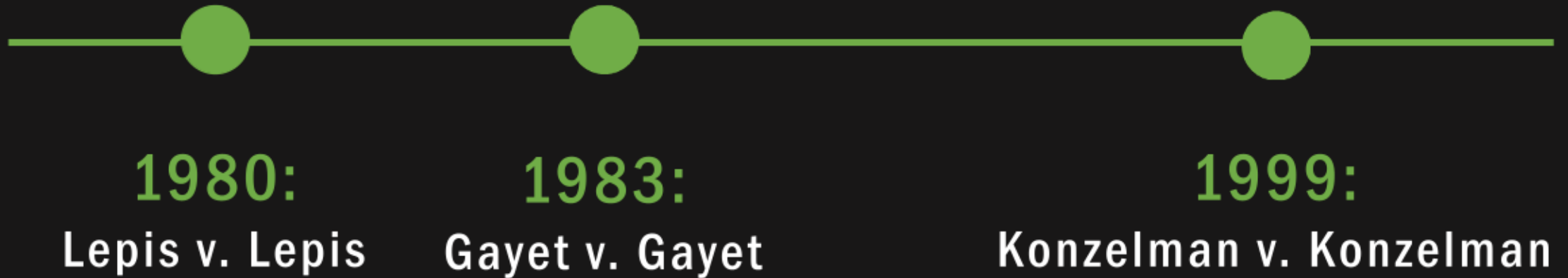
Arises out of the marital relationship and provides a standard of living commensurate with the quality of economic life that existed during the marriage.

EXTENT OF ECONOMIC DEPENDENCY

Determines duration and amount of support. Not one's status as a spouse.

Relationship Between Alimony and Cohabitation

SIGNIFICANT HISTORICAL CASE LAW



Cohabitation Games



QUINN V. QUINN

Maintained separate residences

Understood that “living together” would terminate alimony “forever”

REESE V. WEIS

Maintained separate finances

Paramour paid for “luxury items only”

Key Factors of Alimony Reform

**ELIMINATION OF
PERMANENT ALIMONY**

**DEFINES
COHABITATION**

**THE COUPLE DOES NOT
HAVE TO LIVE TOGETHER**

**SUSPENSION OR
TERMINATION OF ALIMONY**



N.J.S.2A:34-23(n)

ALIMONY MAY BE SUSPENDED OR TERMINATED IF THE PAYEE COHABITS WITH ANOTHER PERSON. COHABITATION INVOLVES A MUTUALLY SUPPORTIVE, INTIMATE PERSONAL RELATIONSHIP IN WHICH A COUPLE HAS UNDERTAKEN DUTIES AND PRIVILEGES THAT ARE COMMONLY ASSOCIATED WITH MARRIAGE OR CIVIL UNION BUT DOES NOT NECESSARILY MAINTAIN A SINGLE COMMON HOUSEHOLD.



The Prima Facie

THE ROLE OF THE PRIVATE INVESTIGATOR

The Private Investigator is tasked with meeting the burden of proof. Investigative strategies are implemented on a case by case basis to gather evidence supporting cohabitation. It's quantity AND quality.

EW v. AW: A CASE STUDY IN COHABITATION



What you need to know

APPLYING THE NEW ALIMONY REFORM ACT OF 2014

7 Factors of Cohabitation



INTERTWINED FINANCES

Joint bank accounts, holdings and liabilities.



SHARING EXPENSES

Joint responsibility for living expenses.



RECOGNITION OF THE RELATIONSHIP

Within couple's social and family circle.



LIVING TOGETHER, FREQUENCY OF CONTACT

Any other indicia of a mutually supportive, intimate relationship.

7 Factors of Cohabitation



SHARING CHORES

And other household duties.



ENFORCABLE PROMISE OF SUPPORT

Has alimony recipient received support from another?



ALL OTHER RELEVANT EVIDENCE

Quantity - More is better!

A COURT MAY NOT FIND AN ABSENCE OF COHABITATION SOLELY ON GROUNDS THAT THE COUPLE DOES NOT LIVE TOGETHER ON A FULL-TIME BASIS.

A photograph of a bedroom with a bed and a window. The bed has white sheets and a dark blanket. The window shows trees outside. The image is overlaid with a semi-transparent dark grey layer.

65%

DOCUMENTED TIME SPENT TOGETHER IN 23 DAY PERIOD



8.7%

DOCUMENTED OVERNIGHTS IN 23 DAY PERIOD

Attorney Considerations



CLIENT CREDIBILITY AND COMMITMENT?

Important to determine if the client will be a credible witness and do they have the wherewithal to see the investigation through?

COST/BENEFIT ANALYSIS

Does the client's alimony amount and duration warrant an investigation?

HANDLING OF FINAL PRODUCT

Is the client prepared to negotiate or will you be making a motion?



Successful cohabitation investigations require collaboration with the attorney and the private investigator, with open and ongoing dialogue throughout.

Your private investigator must understand and know how to apply the key factors that can prove cohabitation.

Be Prepared. Judges still have ultimate discretion. Total knowledge of the cohabitation factors with the evidence to back them up can make all the difference.

Contact Information



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252 Broadway
Long Branch, NJ 07740



Channel
B. Lauren Investigations



Email address
Info@Blinj.com



Phone number
732-483-9800

Bari Kroll is a licensed Private Investigator and is the Owner of B. Lauren Investigations, LLC. For more than a decade, under Bari Kroll's leadership, B.Lauren Investigations has specialized in investigations of insurance and business fraud, delicate family and spousal matters, high-level background studies and other types of investigations whose primary purpose is to find and analyze people, information and/or behaviors. Ms. Kroll's unique perspective as a woman in her field, combined with her experience and track record, makes her a sought-after speaker for individuals and professional audiences alike. Recognized as an expert in her field, Ms. Kroll has been featured in local and national news media outlets and consults on high profile cases and trending topics. She has been a frequent contributor to various outlets including ABC's 20/20, Fox Business, Fox & Friends, The Oxygen Network, Nickelodeon, The Maury Povich Show, NBC, News12 NJ, Star Ledger and the Asbury Park Press.

Navigating Family Law in a Post-COVID Court System: Managing Client Expectations

By Elizabeth Rozin-Golinder, Esq.

The COVID-19 pandemic has significantly impacted every aspect of our lives, including the legal landscape in New Jersey Family Courts. Family law has faced unprecedented challenges as Courts face a shortage of Judges and with trials being suspended in certain vicinages, as attorneys, we are left with no recourse when our clients become frustrated. As Family Law attorneys, it is crucial to guide clients through the nuances of the post-COVID Court system while effectively managing their expectations.

1. Acknowledge Delays and Backlogs Immediately:

One of the most critical aspects of managing client expectations in the post-COVID Court system is acknowledging the inevitable delays and backlogs that have arisen due to the pandemic right away, so they know what to expect. Courts worldwide experienced closures, limited staffing, and transitioned to virtual proceedings, all of which contributed to delays in case processing. In New Jersey, we have faced an extreme shortage of Judges, leading to the suspension of trials in certain vicinages which has brought many cases to a halt. This has forced us to be the bearers of bad news, often telling clients there is no end in sight for them. It is essential to inform clients that their cases may take longer to reach resolution than they might have in pre-pandemic times. I tell my clients that a Divorce / Family law matter is 80% emotional, 10% legal and 10% financial. I constantly remind them that taking the emotions out of it will get us to the finish line much faster.

2. Embrace Virtual Proceedings:

The post-COVID Court system has seen a surge in virtual proceedings, including hearings and mediations conducted via video conferencing platforms. Attorneys must prepare clients for the possibility of participating in virtual court sessions and clearly explain the protocols involved (i.e. not taking the call from a moving vehicle or a noisy, public setting). Helping clients understand the technological aspects and ensuring they have the necessary tools as well as a conducive environment for virtual proceedings is crucial.

3. Set Realistic Expectations for Outcomes:

A trend I have noticed since COVID is the emergence of positions that are much more unreasonable than prior to the pandemic. Family law matters are often emotionally charged, and clients may have strong expectations regarding the outcomes of their cases (whether they are based in law or not). In a post-COVID Court system, where procedures and timelines may differ, it is essential to set realistic expectations. Clearly communicate potential challenges and uncertainties, emphasizing that outcomes are ultimately determined by the facts of the case and the applicable legal principles, not what the client feels is “the right thing to do”.

4. Prioritize Alternative Dispute Resolution (ADR):

Given the strain on Court resources and the potential for delays, we should encourage clients to consider alternative dispute resolution methods, such as mediation or arbitration. I harp on this in my initial consultation, explaining that this path will likely yield a result more palatable to the client and one that will ultimately save time and money. ADR can provide a quicker and more cost-effective means of resolving Family Law issues, allowing clients to have more control over the process and outcome.

5. Stay Informed and Communicate Proactively:

As the legal landscape continues to evolve in the aftermath of the pandemic, Family Law attorneys must stay informed about the latest court procedures and developments. Proactive communication with clients is key to managing expectations effectively. Given the lag time between Court events or any real movement happening in a case, remember to touch base with your clients regularly so they know you haven't forgotten about their case. Despite the case moving slowly, regular check-ins keep the clients from feeling as if nothing is happening and assures them that we are doing everything we can to help.

Navigating the post-COVID court system as a Family Law attorney requires a delicate balance of legal expertise and effective communication. By acknowledging delays, embracing virtual proceedings, setting realistic expectations, prioritizing alternative dispute resolution, and staying informed, attorneys can guide their clients through the challenges of Family Law matters with resilience and understanding. In doing so, they contribute to fostering a more cooperative and informed client-attorney relationship in the evolving legal landscape.

Elizabeth Rozin-Golinder is the founder and managing attorney of Rozin | Golinder Law, LLC, with offices in Middlesex County and Monmouth County. Elizabeth has focused her practice on divorce and family law matters and is admitted to practice in both New Jersey and New York. She is a trustee and the incoming Secretary of the Middlesex County Bar Association, a member of the executive committee of the Middlesex County Family Law Section and is also a member of the Family Law Executive Committee of NJAJ. Elizabeth volunteers her time as an Early Settlement Panelist for Middlesex County and Monmouth County. She was awarded the Martin S. Goldin award by the Middlesex County Bar Association in 2019 and the Middlesex County Young Lawyer Award in 2018.

Minimize Impact, Maximize Resilience.

When an unexpected event occurs, the situation can seem intimidating and threatening especially when dealing with the immediate business and personal impact and the possible legal process that may follow. Minimizing impact and navigating the legal and regulatory landscape today substantially differs from just a few years ago.

How we communicate, maintain business and personal records, and record transactions is now open to daily technological risks and threats. A box of records locked in a safe space is now a USB thumb drive that can be lost or compromised. Email communications, text messages, chat messaging platforms and electronic calendars have replaced handwritten messages – with all open to threats on the internet.

Withum's Cyber and Information Security Services team routinely works with clients and legal counsel, shepherding them through the process of responding to incidents and collecting and preserving electronically stored information. We have the training and expertise to "connect the dots".

COMPETENCIES AND SERVICES

We can assist in navigating these challenging situations, from the onset of a triggering event through the conclusion of the legal process. Our experienced team of subject matter experts are skilled in:

- Incident response
- Computer forensic acquisitions
- Analysis and examination of digital and mobile evidence
- eDiscovery consulting and hosting
- Evidence collection and preservation
- Expert witness testimony
- IoT forensic acquisitions
- Mobile forensic acquisitions
- Network forensic acquisitions
- On-premises services



Withum CFI/e-Discovery® Services Team

T (800) 470 0988

D (212) 537 9397

wcyber.info@withum.com



SUBJECT MATTER EXPERTISE

We provide consulting, incident response and investigative services in a broad range of areas, including:

- Business email compromise
- Ransomware attacks
- M&A due diligence
- Data leakage and extraction
- Embezzlement and fraud
- Government investigations
- Healthcare fraud
- HR investigations
- Intellectual property and theft allegations
- Internal investigations
- Matrimonial
- Monitorships and receiverships
- Public sector investigations
- White collar defense

Your Engagement Leadership

Edward Keck, Jr, MBA, CISSP

Partner, Market Leader, Cyber and Information Security Services

Professional Experience

- Over 30 years of cybersecurity experience across a wide range of industries, with 20 years specifically focused on cyber and information security for financial services.
- Expertise in maintaining domestic and international cybersecurity and privacy program development and operations.
- As a Certified Information Systems Security Professional (CISSP), helps clients strengthen business operations involving Cybersecurity, Data Privacy and Regulatory Compliance, Physical Security, 3rd-Party Risk Management, Operational Risk, and Enterprise Risk Management.
- Former Managing Director in the Integrated Cyber Practice at a Big 4 Accounting Firm. Previously led a cybersecurity and operational risk practice at a management consulting firm.
- Founding member of the IBM Information Governance Council.

Credentials/Education

- Certified Information Systems Security Professional (CISSP)
- Master of Business Administration, Cleveland State University
- Studied, Computer Science, John Carrol University

Memberships

- Member, Information Systems Security Certification Consortium (ISC)²



Industry

- Financial Services
- Healthcare
- Manufacturing, Distribution, and Logistics

Service

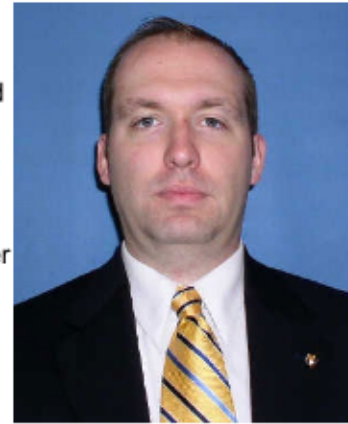
1. Cyber and Information Security Services
2. Data Privacy and Compliance
3. Cybersecurity Program Development and Operations
4. Cybersecurity Strategy
5. Enterprise Risk Management

Eric A. Bishop

Senior Manager, Cyber and Information Security Services | Forensics and eDiscovery

Professional Experience

- Retired Director (Assistant Special Agent in Charge) of the Digital Crimes and Forensics Unit, U.S. General Services Administration (GSA), Office of Inspector General (OIG).
 - Supervised and directed a unit providing nationwide digital forensics support.
- An accomplished criminal investigator and digital forensics examiner with over 25 years of federal law enforcement experience, investigating criminal, civil and administrative cases involving fraud, bribery, gratuities, theft, bid-rigging, conflict of interest, child sexual abuse material, and employee misconduct.
 - Planned and conducted numerous complex investigations resulting in multiple convictions/settlements and the recovery of over \$28,000,000 in criminal, civil, and administrative restitution, fines, and penalties.
- Over 19 years of digital forensics experience acquiring and analyzing various digital devices.
 - Experience organizing and leading teams to acquire and analyze large data sets.
 - Experience planning, organizing, and conducting digital forensic investigations.



Industry

- Government
- Professional Services

Service

- Digital + Mobile Forensics
- eDiscovery
- Fraud Investigation
- Public Sector Investigations
- White Collar Investigations
- Workplace Investigations

Awards

- CIGIE Investigations Award for Excellence
- GSA/OIG Special Achievement Award
- USAO/Eastern District of Virginia Public Service Award
- CIGIE Investigations Award for Excellence
- GSA/OIG Honor Award
- GSA/OIG Sustained Superior Achievement Award

Credentials/Education

- Master of Science, Digital Forensics, *University of Central Florida*
- BA, Criminology, *Indiana University of Pennsylvania*
- Federal Law Enforcement Training Center (FLETC)
 - Computer Network Investigations Training Program
 - Seized Computer and Evidence Recovery Specialist Training Program
 - Inspector General Criminal Investigator Training Program
 - Criminal Investigator Training Program
 - United States Border Patrol Academy
- Global Information Assurance Certification (GIAC) Certified Forensic Examiner (GCFE)
- Digital Forensics Certification Board (DFCB) Digital Forensics Certified Practitioner (DFCP)
- EnCase Certified Examiner (EnCE)
- AccessData Certified Examiner (ACE)
- Cellebrite Certified Operator (CCO) and Physical Analyst (CCPA)
- MSAB XRY Mobile Forensics Certification
- International Association of Computer Investigative Specialists (IACIS) Certified Electronic Evidence Collection Specialist (CEECS)
- Top Secret Security Clearance

Memberships

- Digital Forensics Certification Board
- International High Technology Crime Investigation Association
- International Association of Computer Investigative Specialists
- Association of Certified Fraud Examiners

Alan D. Nelson

Principal, Cyber and Information Security Services | Forensics and eDiscovery

Professional Experience

- Over 25 years of professional experience.
- Specializes in forensic accounting, investigations, and digital forensics.
- His areas of expertise include assisting with internal investigations where allegations of wrongdoing and malfeasance, utilizing investigative tools and technology to assist investigative efforts where business and financial records are missing, receiverships, and digital forensic acquisition and analysis of various forms of digital media.
- Has worked with engagements that involved the FBI, DOJ, SEC and the Secret Service.



Credentials/Education

- BA, Accounting, *Western Michigan University*
- Certified Public Accountant (CPA), Texas
- Certified in Financial Forensics (CFF)
- Certificate in Professional Private Investigations (CPPI), University of North Texas
- Forensic Explorer Certified Examiner (FEXCE)
- MSAB XRY Certification/XAMN Certification
- Private Investigator (PI), Texas
- FBI Compliance Academy

Memberships

- American Institute of Certified Public Accountants (AICPA)
 - Member of the Forensic and Valuation Services Section
- Association of Certified Fraud Examiners
- American Bar Association (ABA)
 - Member Criminal Justice Section
 - Member Science and Technology Law Section
- California Association of Licensed Investigators (CALI)
- High Technology Crime Investigation Association
- International Association of Computer Investigative Specialists
- International Association of Chiefs of Police (IACP)
- Society of Corporate Compliance & Ethics
- Texas Association of Licensed Investigators
- Texas Criminal Defense Lawyers Association

Lectures/Presentations

- North Texas Council of Governments "Emerging City Manager" and "Emerging Finance Directors" training
- Grant Thornton Annual Government Training Event
- University of Texas at Dallas Forensic Accounting class

Published

- Conducting Fraud Examinations with Magnet AXIOM
- International Trade: Stay on the Right Side of the Law

Industry

- Family Office
- Financial Services
- Government | Non-Profit
- Healthcare
- Hospitality
- Native American Tribal Entities
- Oil and Gas
- Real Estate

Service

- Forensic and Valuation Services
- Compliance Investigations
- Complex Litigation Matters
- Data Analytics
- Digital + Mobile Forensics
- eDiscovery
- Fraud Examination
- Insolvency, Bankruptcy and Receiverships
- Public Sector Investigations
- White Collar Investigations
- Workplace Investigation

Awards

- Association of Certified Fraud Examiners – San Antonio Chapter

Vincent J. Fitzgerald III

Manager, Cyber and Information Security Services | Forensics and eDiscovery

Professional Experience

- Nine years of experience as a digital forensics and incident response consultant.
- Involved in e-discovery matters for a Fortune 50 company.
- Has testified as an expert witness in a digital forensics investigation.
- Created thousands of forensic images of various devices including, but not limited to, cell phones (iOS, Android, Blackberry), Laptops, Desktops, and Servers (Windows, Mac OSX, Linux), Security Cameras, and other forms of media such as USB devices, DVDs, and SD Cards.
- Worked on various digital investigations involving ransomware, network intrusion, research fraud, copyright infringement, murder and search warrants executed in conjunction with the U.S. Marshals Service.
- Served diverse client base from individuals and small law firms to large educational and governmental institutions.
- Experience communicating directly with clients and those with highly technical backgrounds.
- Installed and maintained company wide security software for one of the largest labor unions in the country.
- Knowledgeable on the lifecycle of an investigation including, but not limited to client communications, data collection, examination, and report writing.



Industries

- Government
- Education
- Professional Services

Service

- Cyber and Information Security
- Digital Forensics
- Incident Response

Credentials/Education

- BS, Computer and Digital Forensics, *Champlain College*
- Cellebrite Certified Physical Analyst (CCPA)
- Cellebrite Certified Logical Operator (CCLO)
- AccessData Certified Examiner (ACE)
- Open Source Digital Forensics (OSDF) Conference

Technical Skills

- X-Ways Forensics
- Cellebrite UFED 4PC and Physical Analyzer
- OpenText (formerly Guidance Software) EnCase
- Magnet Axion
- Surge Collect Pro
- Cellebrite Inspector and Cellebrite Digital Collector
- Sumuri Recon Imager
- Oxygen Forensic Suite
- Metasploit Forensic Email Collector
- Intella Connect and Pro
- Exterro (formerly AccessData) Forensic ToolKit



Carleen J. Gaskin, CPA, CFF, ABV

Partner, Market Leader, Matrimonial Litigation

Professional Experience

- Has over 25 years of experience in public accounting in industries including: Retail, Distribution, Professional and Legal Services, Medical Services, Dental Services, Real Estate Management, Contractors, Construction, Printing and Apparel.
- Provides forensic accounting and business valuation services to Federal and New Jersey courts, attorneys, corporations and individuals in civil and family court matters.

Credentials/Education

- Licensed Certified Public Accountant in the State of New Jersey
- Certified in Financial Forensics (CFF)
- Accredited in Business Valuation (ABV)
- BS, Accounting, Marist College

Memberships

- American Institute of Certified Public Accountants (AICPA)
- New Jersey Society of Certified Public Accountants (NJSCPA)
- Institute of Business Appraisers

Client Representations

- Business Valuations
- Performance of marital lifestyle analyses, determining available cash flow and preparation of marital balance sheets to assist attorneys in calculating standard of living, alimony and child support, if applicable.
- Forensic accounting investigation

Awards

- ROI-NJ Influencers: Women in Business List, 2023
- NJBIZ Best 50 Women in Business, 2017
- AICPA Forensic and Valuation Services Standing Ovation Recipient, 2016

Publications

- Co-author of Forensic Engagement Reporting Requirements & Preparing Sustainable Reports CPE Course for the AICPA, 2017



Industries

- Retail
- Distribution
- Professional and Legal Services
- Medical Services
- Dental Services
- Real Estate Management
- Contractors
- Construction
- Printing and Apparel

Services

- Forensic Accounting
- Business Valuation



Expert Witness Testimony

Redcross v Redcross

(Fifteenth Judicial Circuit Court, Florida)

Cooke v Cooke

(Bergen County Arbitration)

Spiro v. Spiro

(Bergen County Trial)

Mehran v. Mehran

(Bergen County Arbitration)

Xu v. Hu

(Bergen County Superior Court, NJ)

Dardashtian, et al. v. Gitman, et al.

(United States District Court Southern District of New York Deposition)

Brooks v. Brooks

(Morris County Deposition)

Guitmann v.D Ploszay

(Bergen County Arbitration)

Harms v. Harms

(Bergen County Deposition)

Ferullo v. Ferullo

(Bergen County Arbitration)

Cowles v. Cowles

(Monmouth County Superior Court, NJ)

Brescia v. D'Alberti

(Bergen County Arbitration)



Daniels v. Daniels

(Bergen County Deposition)

Levinson v. Levinson

(Bergen County Arbitration)

Schoeffler v. Schoeffler

(Bergen County Arbitration)

Salvatore v. Salvatore

Bergen County Arbitration)

Newman v. Newman

(Bergen County Superior Court, NJ)

Silverman-Cherepakhov v. Cherepakhov

(Morris County Arbitration)

Wexler v. Wexler

(Hudson County Superior Court, NJ)

Salvatore v. Salvatore

(Bergen County Deposition)

Holden v. Holden

(Morris County Superior Court, NJ)

Cikalo v. Cikalo

(Morris County Superior Court, NJ)

Goldman v. Mautner

(Essex County Superior Court, NJ)

Gering v. Tavano

(Manhattan Superior Court, NY)

Sam joined Berse Law in September 2017. He had graduated cum laude from the Seton Hall University School of Law in 2015, and thereafter completed two clerkships: in 2015-16 for the Honorable Lisa M. Vignuolo, J.S.C. in the Superior Court of New Jersey, Middlesex County, Family Part, and in 2016-17 for retired Presiding Appellate Division Judge Marie P. Simonelli, P.J.A.D. (then-J.A.D.).

Sam is admitted to the New Jersey State Bar, New York State Bar, and New Jersey Federal District Court. He is a member of the New Jersey State Bar Association and serves as the Union County Representative and Co-Chair of the Seminars Committee for the Young Lawyers Division Executive Committee. Sam also serves as the New Jersey Bar Foundation Union County Mock Trial Coordinator and is member of the Union County Bar Association, the Middlesex County Bar Association, the Aldona E. Appleton Family Law Inn of Court, the Barry Croland Family Law Inn of Court, and New Jersey Association for Justice. He is an active ESP Panelist in Middlesex County and Union County.

Sam views his approach to the law as somewhat of a visionary. Over the past several years, Sam co-authored a three-part article series for the New Jersey Family Lawyer magazine which focused on bankruptcy and debt collections in the context of divorce. Sam's most recent article on the subject of alimony and cohabitation was published in the magazine's January 2023 edition. On April 2, 2020, Sam prevailed in the published Appellate Division opinion Amzler v. Amzler, 463 N.J. Super. 187 (App. Div. 2020), where he successfully overturned an erroneous family part judge's ruling and clarified a provision of the alimony statute; on June 9, 2020, he again prevailed in the published family part opinion C.N. v. S.R., 463 N.J. Super. 213 (Ch. Div. 2020), where the court held that, in the absence of a writing, partition of a residence remains an equitable remedy among unmarried, cohabitating intimates engaged in a joint venture. On October 12, 2021, Sam prevailed in the Appellate Division opinion K.A. v. C.E., No. A-4471-19, where the panel affirmed the family part's order, following a trial, which granted Probation wage garnishment for a child's college tuition. Most recently, Sam prevailed in Smiley v. Sheedy, A-2693-20 (App. Div. May 11, 2022), which was the first case after Temple v. Temple, 468 N.J. Super. 364 (App. Div. 2021), where the family part's order was reversed and remanded for discovery and an evidentiary hearing.