

FORENSIC INVESTIGATION AND EVIDENCE GATHERING PROCEDURE FOR FRAUD DETECTION AND REPORTING: A THEORETICAL DISCOURSE

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ABSTRACT

The objective of the study is to lay bare the various techniques/skills of evidence collection for fraud detection. This is of interest to forensic experts in Sub-Saharan Africa. Indeed, Nigeria where the techniques of evidence gathering process in forensic investigation need much development. The study is an expository one that reviewed relevant literature on the subject matter. It was found that tools and techniques of evidence collection for fraud detection and reporting required of forensic experts are not adequate in Nigeria. The finding suggests that effective prosecution of fraud cases in court in many countries of Africa especially Nigeria remain an issue for which adequate forensic investigation would have ameliorated. The study recommended that experts in the emerging field of specialty in Nigeria should be keen in developing their investigative/evidence collection skills and techniques (digital and non-digital) for effective prosecution of fraudsters in court.

Keywords: Evidence gathering, Investigation, Fraud reporting, Forensic experts, Prosecution, Fraud cases

1. INTRODUCTION

Forensic auditing is an emerging specialty within the field of auditing and accounting profession: The profession and practicing of it is gaining much relevance and of interest to a variety of stakeholders all across the globe requiring the service of the specialists (forensic auditors/accountants) (Ellan &Falyz, 2011). Prominent among these stakeholders are investors, business owners (Corporate or individual), Government, regulatory authorities etcetera.

The key factor responsible for the growing relevance of the emerging specialty is the corporate failure and corporate scandals witnessed in some world class organizations in the 1990s and 2000s (Ogumatola& Tola, 2018). Examples of these organizations include Enron (USA), world com, Global Crossing, Krispy Krene company, AgloRush bank, Tyco international, Xerox (USA), Parmalat (Italy) etcetera. In Nigeria, the financial problem and failure of corporate entities such as Lever Brothers, Cadbury (Nigeria), union Dicon Salt and distress of banks in the 1990s were all attributable to fraudulent activities in the management of these organizations. These failures have exposed the inadequacy of the traditional audit techniques in unraveling corporate fraud and have rejuvenated interest in forensic accounting/ auditing (Augustine& Rosemary, 2014). The inadequacy in traditional audit has necessitated the shifting of audit from mere examination of books of accounts and expression of opinion on financial statement of enterprises to investigate skills of experts (forensic auditors/accountants). The skills are important for analyzing financial crimes that could be committed in preparation and delivery of financial statements of enterprises for public consumption (Kunga& Simon, 2015). The analysis requires the knowledge of the experts to critically analyze the effect of changes or any change in the internal and external environment of entity that can render internal control system less effective for fraudulent activities (Charles &Azhma, 2013). A forensic auditors has the where withal to entertain fraud and fraudulent related assignment based on his training and investigative ability (Frank,Neol& Peter, 2014). The success of any forensic assignment thrives on practical procedure that must be taken by the investigator (forensic auditor) in order to gather evidence relevant to alleged fraudulent activity of suspect(s) that has to be uncovered.

Fraud has been a canker worm depriving individuals and nations of resources meant for growth and development (Tungh & Wumi, 2019). It is a deterrent to investment and a main factor responsible for impairment of capital formation, taunted economic growth and development issues across nations of the world especially in Sub-Saharan Africa (Gberibe&Asamawo, 2019). As no nation is immune from fraud, advanced nations such as USA, UK and Canada have put in place measures of elaborate investigative and evidence gathering procedure for the primary purpose of detecting and responding adequately to fraud cases (Myer & Robert,2017). These investigative and detective skills in these countries are worthy emulation for the role the experts (forensic auditors/accountants) in these countries have played in curbing financial crimes. However, the case for the role of forensic auditing service in developing Africa is still faced with a lot of challenges prominent among is lack of investigative

skills that impede the rate at which fraud cases are responded to for prosecution (Kaghas&Bortca, 2020).

The theoretical exposition of the investigative skill of evidence gathering procedure for fraud detection and reporting in forensic audit is worth research. Credible evidence gathering paves for successful legal proceedings against suspects and it is significant in curbing fraud. Fraud detection and curbing it, is of interest to all groups (investors, government etcetera) across the globe especially in developing nation of Africa and indeed Nigeria where a lot has to be done in terms of the menace of fraudulent activities. Fraud detection and reducing it is a problem in African countries and a key factor that has rendered the economies of these nations unattractive both to local and foreign investors (Kagha& Bortca,2020). It is noting this premise that this study is considered significant and valuable.

In many developed nations, the practice of forensic accounting/auditing has promoted the success and growth of the many professions (Myer & Robert,2017). In USA, UK, Canada and Australia for example, forensic accounting/auditing has developed as many institutions and organizations in these countries have forensic units providing experts services to clients. Experts in these nations where forensic auditing has grown, have tools for training and evidence analysis for reliable reporting (Kingsley & Sawyer 2018). The story is however different in developing nations of Sub-Saharan Africa where the specialty is still emerging and as such, the development of the investigative skills required of the experts for effectiveness is still at the embryonic stage and therefore inadequate (Mosola&Jakaiye 2019). This has further compounded the issue of fraud detection in most nations.

In Nigeria, though government has set up some anti-fraud and corruption agencies such as Economic and Financial Crimes Commission (EFCC), Independent Corrupt Practices and Related Offences Commission (ICPC) and Code of Conduct Bureau (CCB), fraudulent activities in many institutions and organizations is still on the increase (Nzekwe&Morti, 2018). A well equipped operation of forensic practice in the country would have ameliorated the spate at which fraudulent activities of unscrupulous people go on in the Nigerian state if not for the lack of the necessary skills for the few that are into the profession (Shongula& Adeola 2018). Contrary to what has been observed in many developed countries around the world, fraud detection is still a herculean task for forensic experts in Nigeria due to lack of detective and evidence collection skills necessary for fraud detection to complement the efforts of relevant government agencies in the fight against fraud and corruption.

This paper therefore presents a theoretical perspective of investigative skill of evidence gathering for fraud detection and reporting. The study is an academic exercise with the aim of enlightening forensic experts especially in developing nations and Nigeria in particular, the rudiments of evidence gathering as a key tool that will lead to successful persecution of fraudsters.

2. LITERATURE REVIEW

Oluwatoyin, Ayoib and Rose (2015) conducted a study on forensic accountants and auditor's knowledge and skill requirement for task performance and fraud risk assessment in the Nigerian public sector. The study employed cross sectional design and survey to source data primarily from 328 respondents. Data obtained were analyzed using PLS-SEM (smart PLS 2.0m3) and SPSS. Findings suggested that investigative skill is key for fraud risk assessment, fraud detection and performance.

Hamdan (2018) studied the role of forensic accounting in discovering financial fraud. Responses from the questionnaire distributed were empirically analyzed using confirmatory factor analysis to figure out the contribution of different items of forensic accounting variables to discovering fraud. The results revealed that forensic accounting is an effect service for fraud discovery if necessary investigative skills are available to the experts (forensic auditors/accountants).

Godwin (2015) investigated forensic audit methodology with the aim of determining the tools required for effectiveness in forensic investigation using a survey research approach. Findings suggested that investigative techniques such as evidence gathering is one of the ways investigators can equip themselves for forensic assignment.

Ejike (2018) conducted a study on the relevance of forensic accounting: Issues in accounting and auditing practice in Nigeria. Data for the study were obtained primarily through interviews for responses on the subject matter. Responses obtained were analyzed using t-statistical tools. Findings suggest that forensic auditing/accounting is relevant for curbing the menace of fraudulent activities but require a lot of investigative skills of the experts (forensic auditors/accountants).

Gbola and Bimbo (2019) conducted a study on forensic auditing: The relevance and skills required for it. It was an explanatory study that made use of interview conducted among auditors and accountants in both private and public sectors in Nigerian economy. Findings indicated that forensic auditing is an emerging area of specialization that requires adequate investigative knowledge of experts for performance.

Deliga and Orgie (2018) carried out a study on forensic accounting issues in developing economies. Using survey research design, data for the study were obtained from a sample of auditors and accountants in seven African countries namely; Nigeria, Ghana, South Africa, Kenya, Namibia, Uganda and Rwanda. Responses on a number of factors militating against the effectiveness of forensic auditing practice were analyzed using a simple percentage of non-parametric statistics. Findings indicated that lack of investigative tools for evidence collection technique is a major factor facing the practice of the profession in the sub region.

Woyeso and Dada (2019) studied development issues in forensic auditing practice in Nigeria. The aim was to ascertain challenges to the development of forensic auditing in Nigeria. It was an exploratory study that ascertained adequacy of investigative tools and techniques required for successful forensic auditing. Findings revealed that the tools and techniques required of forensic experts are not adequate in Nigerian environment.

2.1 Theoretical Framework

The study is anchored on criminal theory linked to information theory propounded by Hary and Raph in 1920s. The theory emphasized the role evidence play in criminal investigation and prosecution. The theory assumed that both the accuser and accused in a criminal/fraud case have the right to present evidence they collected for purpose of defense. It is for this reason that the theory stressed the need for investigator to apply appropriate strategies to locate, handle evidential items and conduct interview technique for identification of suspect(s). For identification of suspects of criminal(s) or fraudster(s), the theory further advocated for employment of scientific techniques by experts (forensic auditors/accountants) for evidence collection given the sophisticated nature of crimes in modern world.

The emphasis of the theory for experts to apply appropriate and necessary strategies of evidence collection for successful prosecution of fraudsters underscores the relevance of the theory to this study.

3. METHODOLOGY

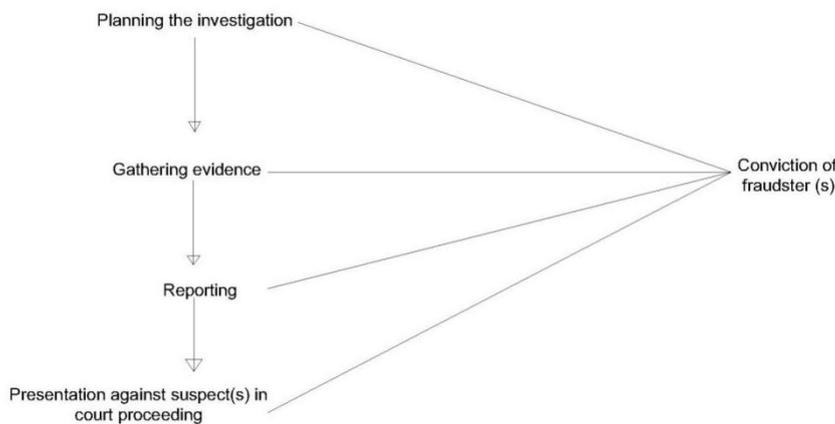
The study is an expository one that reviewed relevant literature on the subject matter. Therefore, previous presentations on the theoretical as well as the empirical study were consulted. The desk research method was used for gathering data for this study and previously published journals on related subject matter were assessed and searched with the use of keywords such as “forensic auditing”, “forensic investigation”, and “forensic accounting” on the Google scholar website. Up to

twenty articles each were consulted using each of the keywords listed earlier and across various countries, both developing and developed ones, around the world. In total, up to sixty articles were consulted for this study.

4. FORENSIC AUDIT INVESTIGATION PROCEDURE

In addition to the normal audit procedure, a forensic auditor has an additional step to take. The steps according to Hay and Donald (2016) are distinct comprising (i) Planning the investigation (ii) Gathering evidence (iii) Reporting and (iv) Presentation in court proceedings. The detailed steps above should lead to successful prosecution of suspect(s) in court law.

The four steps are diagrammatically presented below:



Diligence in the execution of each of these phases of the investigative procedure will lead to successful conviction of suspect(s) in court.

4.1 Planning the investigation

A clear understanding of the nature of investigation assignment came through planning. Thus, Lary&Skov (2013) stated that planning in forensic investigation helps the auditor to keep in focus the objective of the assignment by (i) Identifying the type of fraud that has been occurring and how long the fraudulent activity has been operating and concealed (ii) Identifying the suspect(s) of the criminal act (iii) Quantify the financial loss suffered by victims of the act and (iv) Gathering relevant evidence to be used in court proceedings against the suspect(s). Planning is a pillar upon which the success of any forensic investigation revolves (Larry &Skov, 2013). Planning comprises conscious effort making for experts to keep in focus, the objective of the

assignment for which the investigator is commissioned. The stage precedes evidence gathering and as much as possible should be devoid of all manner of influence that could jeopardize the essence of the exercise (Pat & Ann 2015).

4.2 Gathering Evidence

At this stage, the auditor (expert) should be detailed oriented in obtaining both oral and documentary evidence sufficient to ultimately reveal the identity of the suspect(s) (Eddy & Stein, 2013). A detailed evidence gathering process will reveal sufficiently the modus operandi (techniques) of the suspect(s) and the amount of financial loss suffered by victims as a result of the illicit act. This is the initial stage in establishing the usefulness of evidence.

Evidence is useful for forensic purpose when such evidence is tenable in court processing for successful conviction of suspects (Jeptha & Maxwell, 2016). It should be noted however that, for successful conviction, safety of evidence is sacrosanct particularly in the Nigerian environment where many fraudulent cases failed in court for lack of sufficient evidence (Chinuba & Nwakobi, 2019).

Quite apart from safety of evidence, the methods/techniques used in evidence collection also matter. No matter how glaring evidence may exist for prosecution of suspect(s) such prosecution could be marred by faulty technique used in obtaining such evidence against the suspect(s). Thus, Efoma (2017) observed that evidence against suspect(s) in criminal proceedings can only be tenable if the methodology of collection of such evidence is reliable and can be substantiated.

The following are the major techniques useful in gathering evidence:

Substantive techniques: Substantive method involves the use of various techniques such as reconciliation of accounts, review of documents, and reports (Millicent & Agorn 2012). In reviewing of accounts, financial reports and supporting documents, inconsistencies in the evidence shown should be noted and further information sought from responsible officials for clarification. Hasty review process of substantive technique aids loss of evidence in forensic investigation (Mark & Robinson, 2013)

Analytical procedure: It is a procedure used for comparing trends and events over time so as to identify any discrepancy or discrepancies in the trends of transaction and events (Theodore & Evans, 2011). The procedure is also used to obtain comparative data from different segments of a business to ascertain where unusual but fraudulent activities must have occurred (Bulden & Singer, 2012).

Computer Assisted Audit Technique (CAAT). The technique is used to identify the timing and location of relevant details altered in the computer system for fraudulent

purpose (Lee & Dickson, 2010). For this reason, some audit software programs have been developed/designed to carry out test of control and substantive procedure. Example of this, is enquiry program of audit software designed for identification and authentication of transactions reported in financial statements where by inputted fraudulent transactions can be identified

Internal Control testing: This is the testing of the internal control system of an entity to gather reliable evidence about weaknesses or loopholes in the system (Coleman & Surman, 2010). A faulty control system of an entity can be fraudulently exploited, identification of such loophole(s) is a basis for proffering feasible solutions to any leakage (Esberg & Hallman 2014)

Interview: It is an evidence gathering means whereby, the investigator asks series of questions for factual information from suspect(s) (Sandra & Lien 2015). It involves the use of logical approach by laying out other available evidence before suspect(s) for admission of quit (wash & Scleif 2013). Interview whether accusatory or non-accusatory, the essence is to obtain information from suspect(s) on where, when and how the crime occurred and those involved (Oscar & Young, 2013). Interview is a means to an end and not an end itself in fraud investigation as it only give clues which must be viewed and interpreted in totality of other available evidence.

4.3 Types of Evidence

There are two broad categories of evidence in forensic investigation namely: Non computer assisted and computer assisted evidence. Examples of non-computer assisted evidence are as follows:

Character evidence: Character provides the intent, motive and trait of suspects in a criminal act (Jessy & Mark, 2019). It is a testimonial evidence of the usual behaviour for which the suspect or suspects are known (Dally & Golg, 2010). It is a prove that a suspect in a fraudulent act is capable of committing the crime based on previous acts typical of the suspect's behaviour. The evidence is largely obtained from people who are close to the suspect(s).

Circumstantial evidence: It is an indirect evidence used to infer something based on series of facts separate from the fact or argument the investigator is trying to prove (Errison, 2011). The evidence requires a great deal of objective deductions of facts from other facts that can be proven against the suspect.

Direct evidence: Also known as eye witness evidence is the most reliable evidence. It is a direct testimony of an eye witness who first-hand saw the act of a suspect or suspects (Davis & Viteen, 2014). However, as reliable as the evidence is, it may be

scanty as it requires courage of testifiers. Insecurity, intimidation involving threat to life can impede this type of evidence (Justin& Gad, 2015).

Demonstrative evidence: It is also a reliable evidence for forensic audit as the object or instrument used for evidence collection can directly demonstrate how the crime was committed. Examples of these instrument include photographs, video, audio recording etcetera.

Physical evidence: It is evidence inform of tangible objects such as firearms, rope used for criminal purpose. Physical also called real or material evidence is a potent evidence that can be presented in court proceedings as exhibit (Ronald & Tilma, 2011) For improve of crime, physical objects captured in images in audio or video for demonstration can be tendered in court as exhibit.

Statistical evidence: It is referred to as evidence based on numbers or statistics to support a position in an argument (Leonard, 2016). It is a rigorous process, the analytical ability and numerical acumen of investigator is sacrosanct as a thorough analysis of events and research are required to arrive at a position.

4.4 Computer Assisted Forensic Evidence

It is a scientific evidence collection method with aid of software that can enable the investigator search for lost transactions, recover and analyze data (Hisbal&Auwul, 2015). Example of these software is GURU 99. Others are Slenth (+ Autopsy) that allows investigator to examine hardware and smart phone, Cainesoftware that offers complete forensic environment that provides a graphic interface, paladin software that helps investigator to search for required information, Encase that allows investigators to conduct an indepth analysis of files to collect proof like documents, Toolkit, a forensic investigation software that can allow forensic expert view the content of images, conduct searches and retrieve hidden and deleted data for fraudulent purpose, Magnetic RAM Capture that allows investigators to recover and analyze valuable items which are found in memory, X rays forensic a software that provides a work environment. It also enables investigators to automatically identify lost or deleted portion of transactions. Registry recon, a forensic tool used to extract, recover and analyze registry data from windows OS.

For this computer assisted evidence collection, protection of evidence collected is key for which cloudstrike software is available. It is software used to find and block attackers in real time. The software is used for evidence protection to secure virtual physical and cloud based data centre (Bally &Jeffer, 2012).

4.5 Reporting

The ultimate aims of forensic report are that it should be able to inform and to influence the court decision (Ronald &Tima 2016). At the reporting stage, all evidence gathered are tendered with results of the forensic examination inform of facts and opinion are presented. A report of an investigation assignment contains the findings, summary of evidence obtained in the course of the investigation, detailed explanation of how the alleged fraud was perpetuated and suggestions on how internal control system can be improved to prevent such fraud in future. A forensic report that is accurate and professionally drafted is a basis as it enables users to institute actions against suspects (Chapman & Neil 2014).

4.6 Court Proceeding

Investigation exercise and results of forensic examination presented in a report normally lead to legal proceedings against the suspect or suspect(s). At court proceedings the investigators present the evidence collected and explain the procedure followed to identify the suspect(s). For conviction, the investigators as much as possible at the proceeding will present the evidence in clearly and professional manner, simplify complex accounting issues, explain accounting and auditing terms in academic language so that non accountants involved in the case can understand how the scheme (fraud) was perpetuated and the socio-economic implications of the act. A key economic implication of fraudulent act upon which conviction is usually made against the suspect(s) is that the victim of the fraudulent act must have suffered quantifiable damages (Demola&tunji, 2013; Onubo& George, 2015; Oliver, 2017).

5. CONCLUSION AND RECOMMENDATION

Forensic auditing is an emerging specialty that is growing rapidly and of interest to all people across the globe. It that interest in the profession that institutions in many advanced nations such as UK, USA, Canada, Germany and France have elaborate forensic department in all most all their public and private organizations. The services of the experts in these countries have been remarkable in developing rapid response plan via sophisticated accounting and auditing techniques in detecting and preventing fraudulent practices in all establishments. However, in Nigeria, the practice and the growth of the profession has been fraughted with gamut of challenges particularly that of lack or required investigative skills of experts for evidence collection. Successful prosecution and conviction of suspects in fraud cases is the ultimate aim of forensic investigation of fraud cases. The prosecution and conviction is a court decision that hinges on reliable report upon credible evidence tendered before it. Prosecution and

conviction of fraudsters can assist in no small measure in checking incidence of fraud in any society.

It is in this view of the importance of evidence in forensic investigation that the various types and techniques of evidence collection is clearly explained in this study. Therefore, experts in the profession (forensic accountants/auditors) particularly in Nigeria should be keen in developing and investing much in investigative skills of evidence collection for fraud detection and prevention. The detection of the Cankerworm (fraud) by the experts will compliment the efforts of anti-graft agencies of government in Nigeria or elsewhere. Confidence of local and foreign investors in an economy is one of the major positive impact of low level of fraudulent activities in a nation of which the services of forensic experts are sacrosanct.

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