

AND EFFECTIVE METHODS TO

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ACCOUNTING DAY® 2021 | MONDAY, OCTOBER 25

INTRODUCTIONS





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INTRODUCTIONS (CONT.)



Swenson Advisors, LLP (Swenson) is a full service accounting, tax, and consulting firm. Since 1998, the Firm has provided comprehensive services to middle-market public and private companies, as well as high net worth individuals throughout Southern California.

The Firm services a variety of industries including technology, real estate, manufacturing, distributing, biotechnology, and non-profits.



AGENDA 8:10 — 10:00

- Definition of Fraud
- The Fraud Triangle
- Report to the Nations 2020 Global Study on Occupational Fraud and Abuse - Association of Certified Fraud Examiners
 - Description of the Study
 - Summary Key Findings
- How is Fraud Committed?: The Fraud Tree
 - Corruption
 - Asset Misappropriation
 - Financial Statement Fraud

- Fraud Case #1 Bernie Madoff
- How is Fraud Concealed?
- Who is Committing Fraud?
- Fraud Case #2 Theranos
- How is Fraud Detected?
- Fraud Case #3 Diamond Foods



DEFINITION OF FRAUD

- » Wrongful or criminal deception intended to result in financial or personal gain.
- Any and all means a person uses to gain an unfair advantage over another person involving a false statement (oral or in writing) about a material fact, knowledge the statement was false when made, and the victim relies on the statement and suffers injury or loss as a result.
- » Intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right (Merriam Webster)
- Any illegal act characterized by deceit, concealment, or violation of trust. These acts are not dependent upon the threat of violence or physical force. Frauds are perpetrated by parties and organizations to obtain money, property, or services; to avoid payment or loss of services; or to secure personal or business advantage. (Institute of Internal Auditors, International Professional Practices Framework)
- The use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the organization's resources or assets. (definition of occupational fraud, Association of Certified Fraud Examiners)



DEFINITION OF FRAUD (CONT.)

COMMON LAW FRAUD HAS NINE ELEMENTS:

- » A representation of an existing fact;
- its materiality;
- its falsity;
- » the speaker's knowledge of its falsity;
- » the speaker's intent that it shall be acted upon by the plaintiff
- » plaintiff's ignorance of its falsity
- » plaintiff's reliance on the truth of the representation;
- » plaintuff's right to rely upon it; and
- » consequent damages suffered by plaintiff.



THE FRAUD TRIANGLE



» Cressey's hypothesis:

"Trusted persons become trust violators when they conceive of themselves as having a financial problem which is non-shareable, are aware this problem can be secretly resolved by a violation of the position of financial trust, and are able to apply to their own conduct in that situation verbalizations which enable them to adjust their conceptions of themselves as trusted persons with their conceptions of themselves as users of the entrusted funds or property."





OPPORTUNITY

INTERNAL CONTROLS:

- » None in Place
- » Not Enforced
- » Not Monitored
- » Not Effective

No Segregation of Duties

Too Much Trust

Poor "Tone at the Top"



RATIONALIZATION

"I don't get paid what I'm worth!"

"Everyone else is doing it!"

"If they don't know I'm doing it, they deserve to lose the money"

"I intended to pay it back"

"Nobody will miss the money"

EXTERNAL PRESSURE/MOTIVATION:

- » Debt, Greed
- » Life Pressures
- » Lifestyle Needs » Illicit Activities: Vices, Gambling, Drugs

INTERNAL PRESSURE/MOTIVATION:

- » Pressure to Perform
- » Too Much Work





OPPORTUNITY

If one is talking about theft, there must be something to steal and a way to steal it. Anything of value is something to steal. Any weakness in a system - for example, lack of oversight - is a way to steal. Of the three elements of the Fraud Triangle, opportunity is often hard to spot, but fairly easy to control through organizational or procedural changes.

PRESSURE

Pressure in this case is another way of saying motivation. What is it in one's life that drives one to commit fraud? Pressure sometimes involves personal situations that create a demand for more money; such situations might include vices like drug use or gambling or merely life events like a spouse losing a job. At other times, pressure arises from problems on the job; unrealistic performance targets may provide the motive to perpetrate fraud.



RATIONALIZATION

There are two aspects of rationalization: One, the fraudster must conclude that the gain to be realized from a fraudulent activity outweighs the possibility for detection. Two, the fraudster needs to justify the fraud. Justification can be related to job dissatisfaction or perceived entitlement, or a current intent to make the victim whole sometime in the future, or saving one's family, possessions or status. Rationalization is discernible by observation of the fraudster's comments or attitudes.



The Fraud Diamond



Source: AGA (Association of Government Accountants)

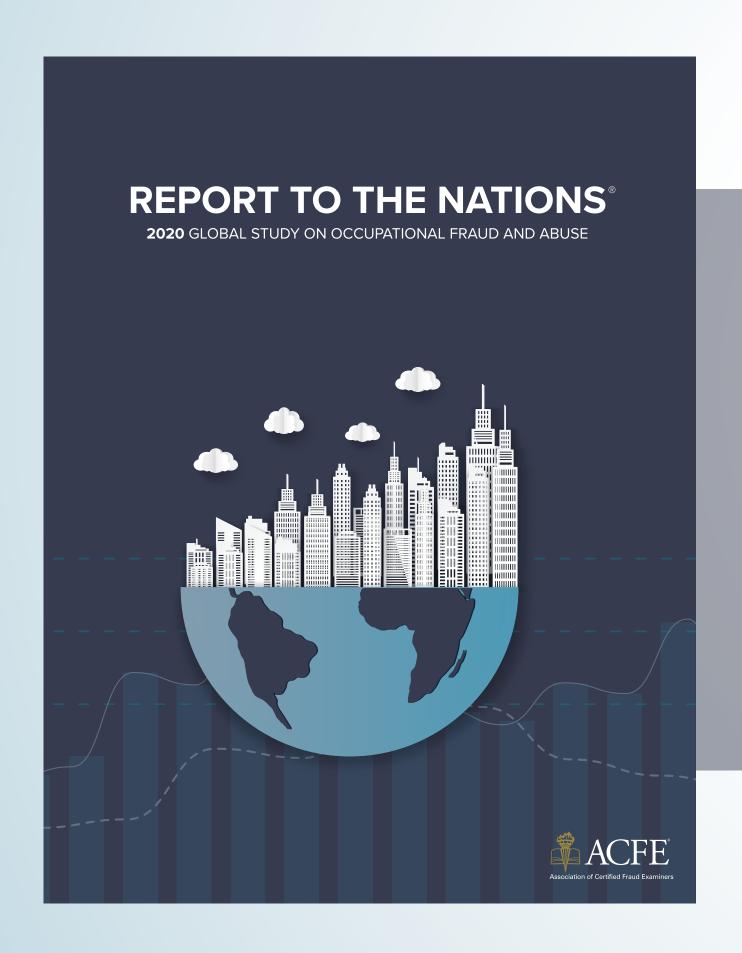
CAPABILITY

The Fraud Diamond, a newer theory of fraud proposed by David T. Wolfe and Dana R. Hermanson, asserts that the fraudster's capability must also be taken into account. The fraudster, it is said, must have the required traits (e.g. greed, weakness of character, excessive pride, dishonesty, etc.) and abilities (e.g., knowledge of processes and controls) to actually commit the fraud. It can be argues, however, that traits are components of pressure and that abilities are opportunity factors.

Note: Removal of opportunity is most directly affected by establishment of appropriate internal controls.



REPORT TO THE NATIONS 2020 GLOBAL STUDY ON OCCUPATIONAL FRAUD AND ABUSE - ASSOCIATION OF CERTIFIED FRAUD EXAMINERS



REPORT TO THE NATIONS

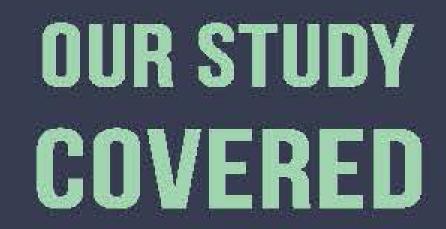
2020 Global Study on Occupational Fraud and Abuse

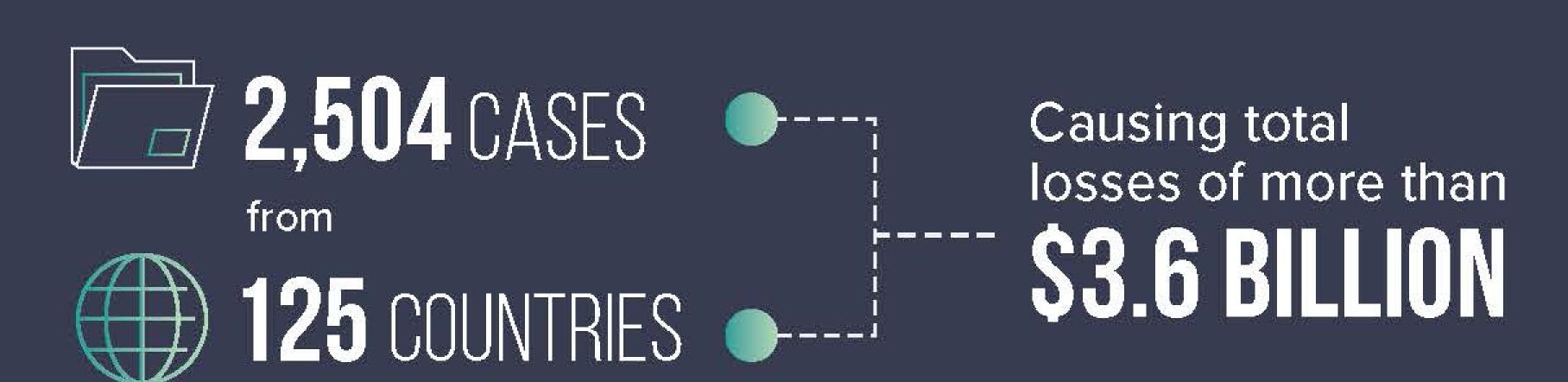


Together, Reducing Fraud Worldwide

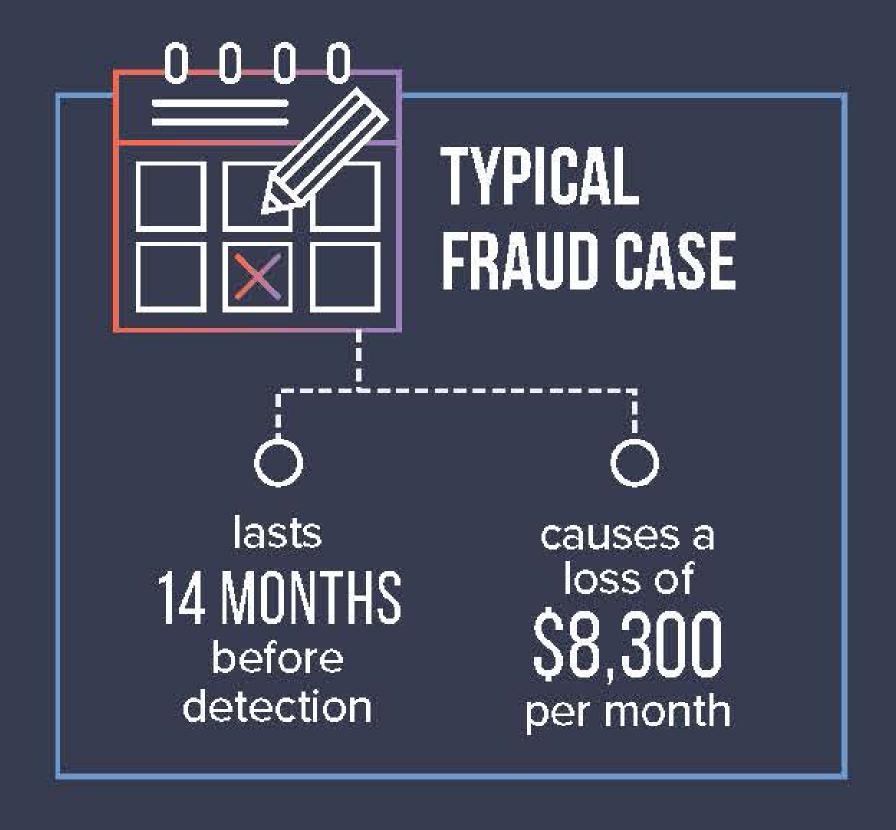


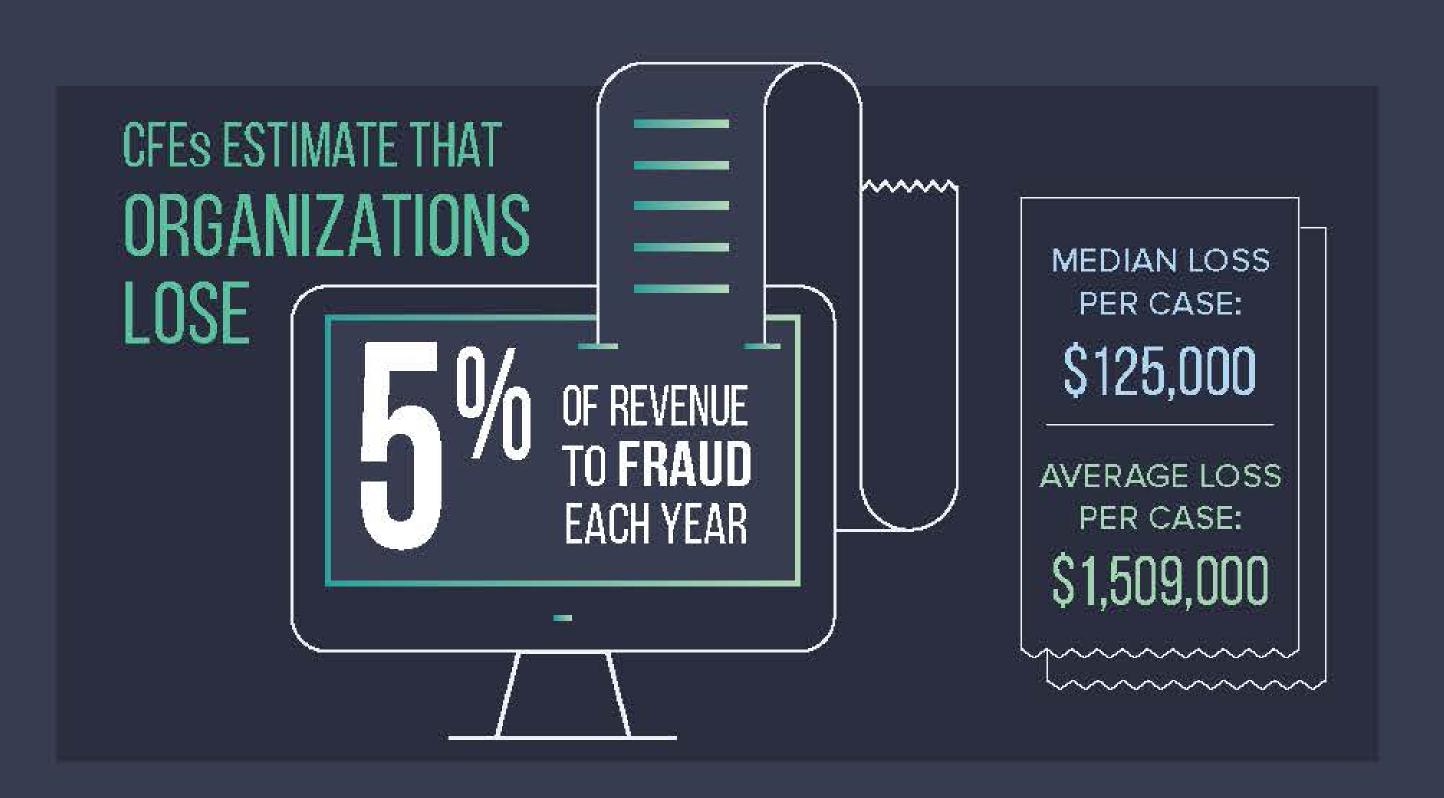
SUMMARY KEY FINDINGS



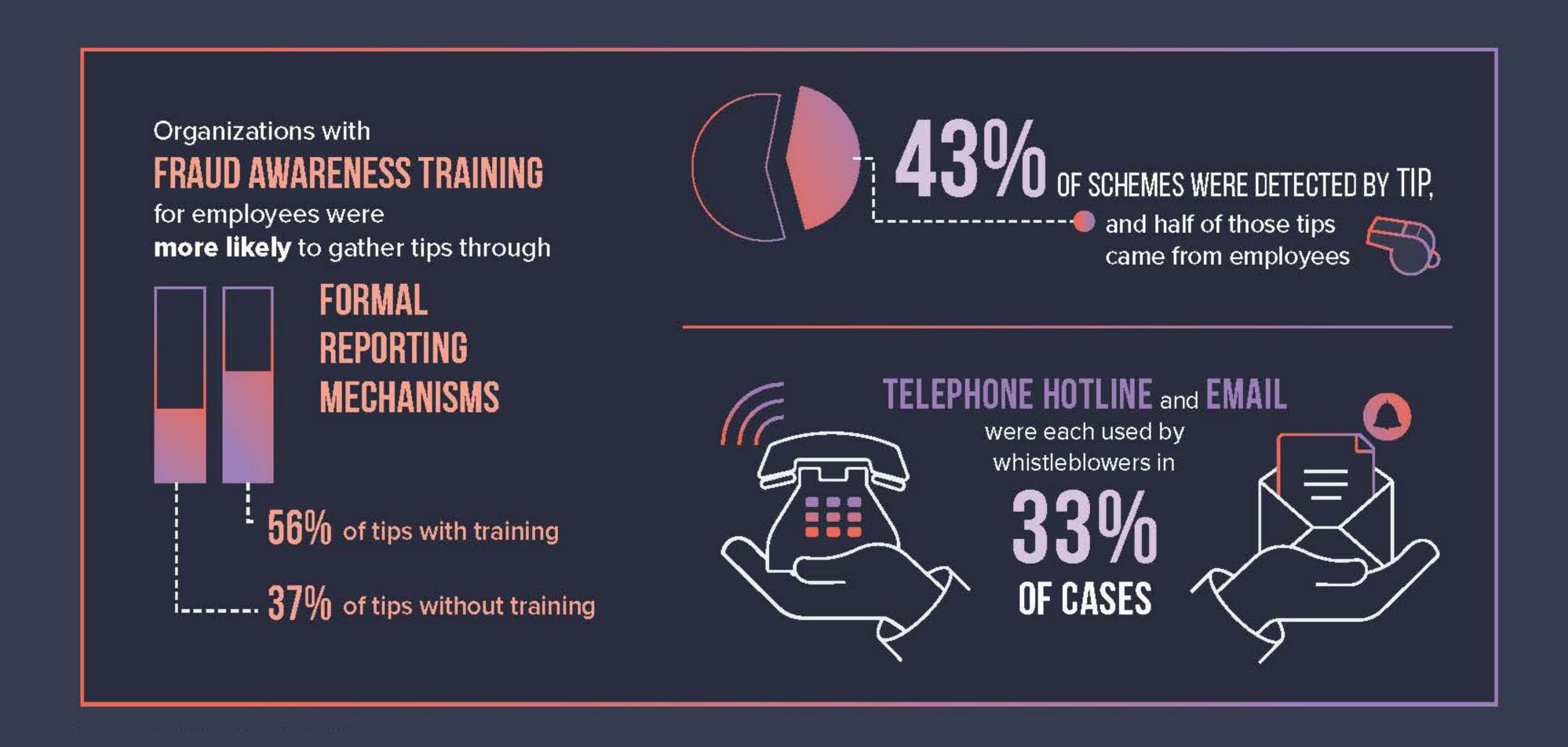




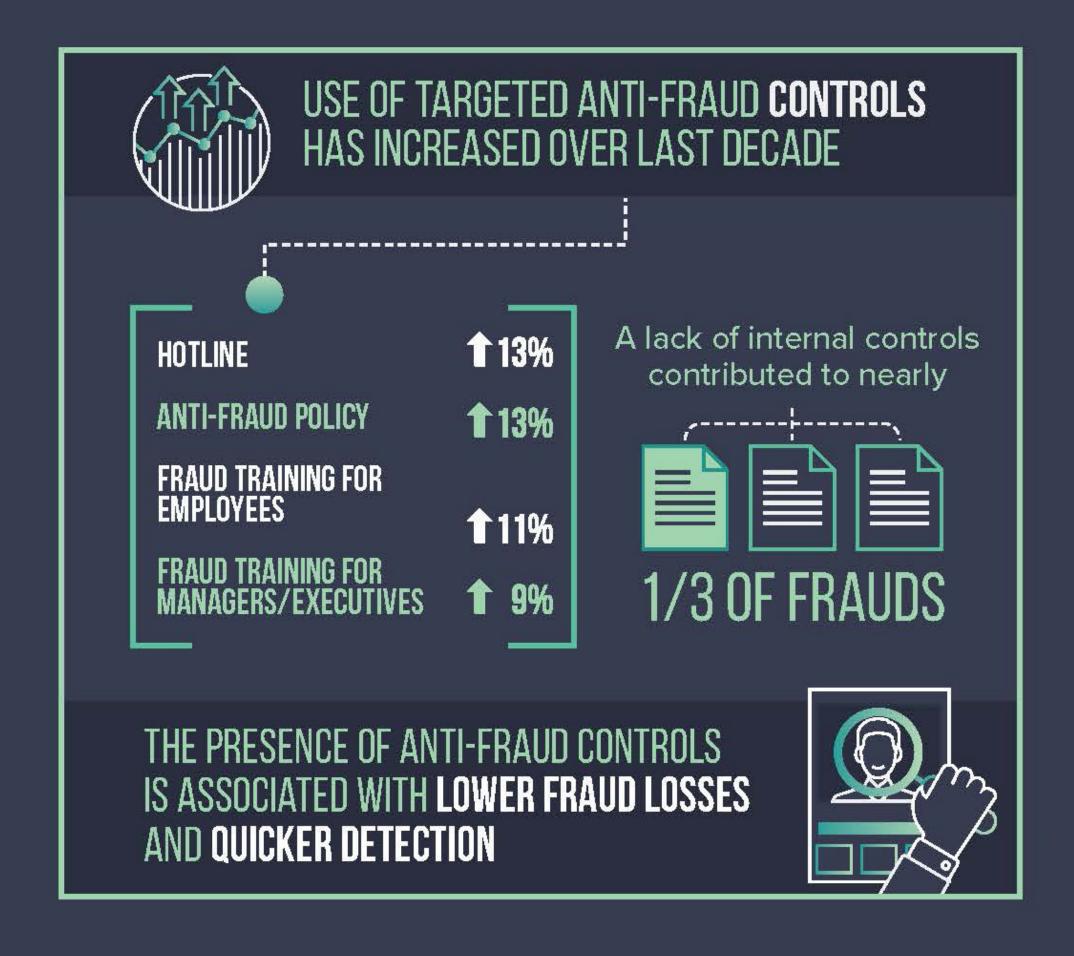












CERTAIN FRAUD RISKS WERE MORE LIKELY IN SMALL BUSINESSES THAN IN LARGE

THAN IN LARGE ORGANIZATIONS:

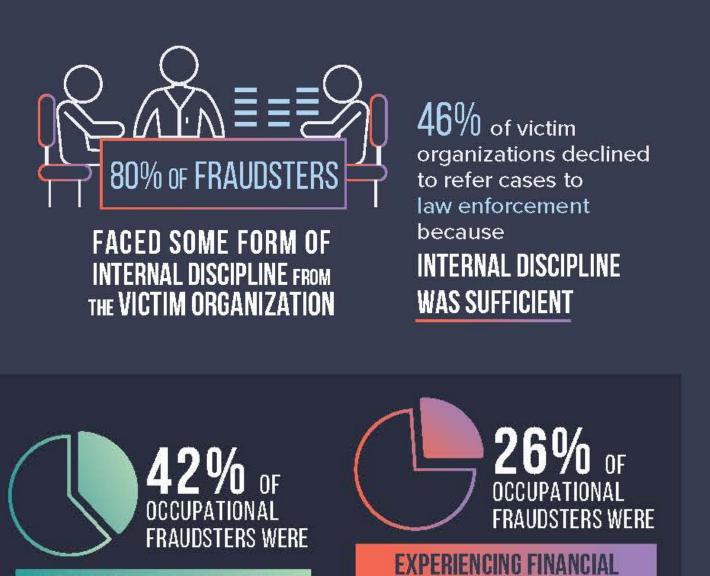












DIFFICULTIES

LIVING BEYOND THEIR MEANS



HOW IS FRAUD COMMITTED?: THE FRAUD TREE

OCCUPATIONAL FRAUD AND ABUSE CLASSIFICATION SYSTEM

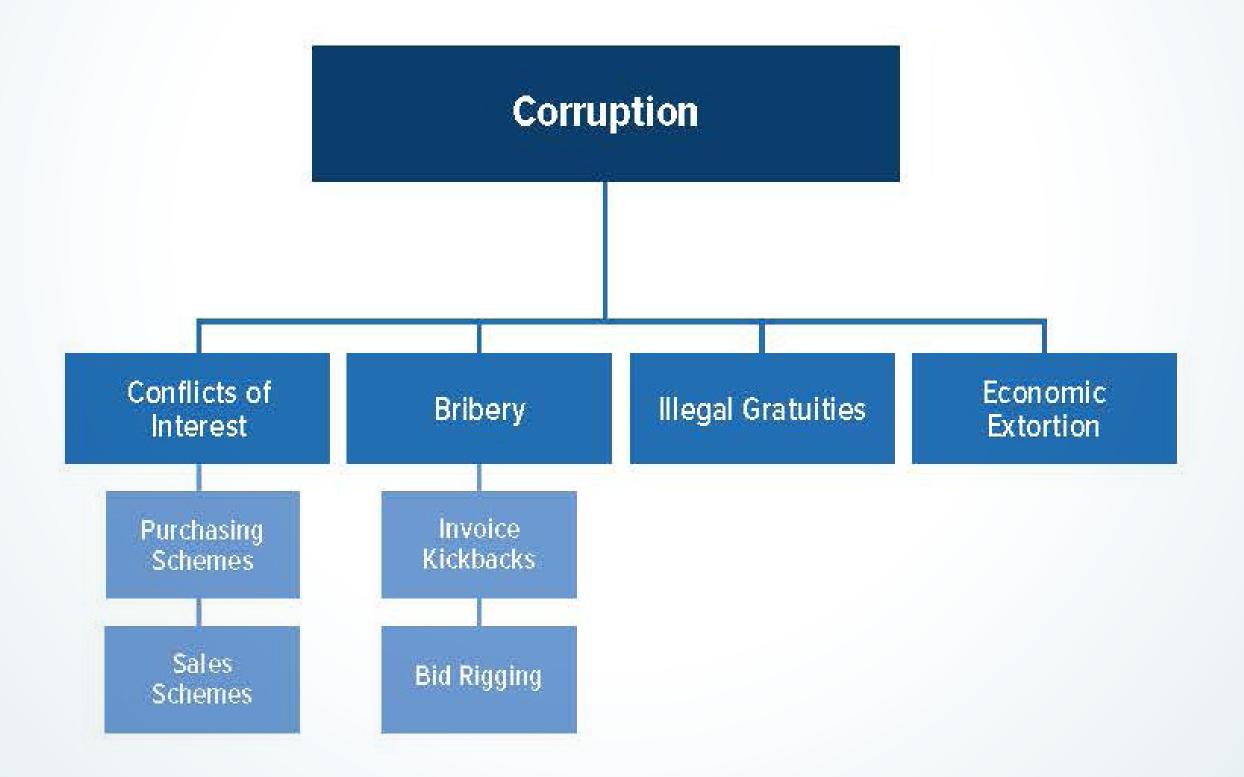


Figure 3. From Report to the Nations 2020® Global Study on Occupational Fraud and Abuse, by the Association of Certified Fraud Examiners, 2020.



HOW IS FRAUD COMMITTED?: THE FRAUD TREE (CONT.)

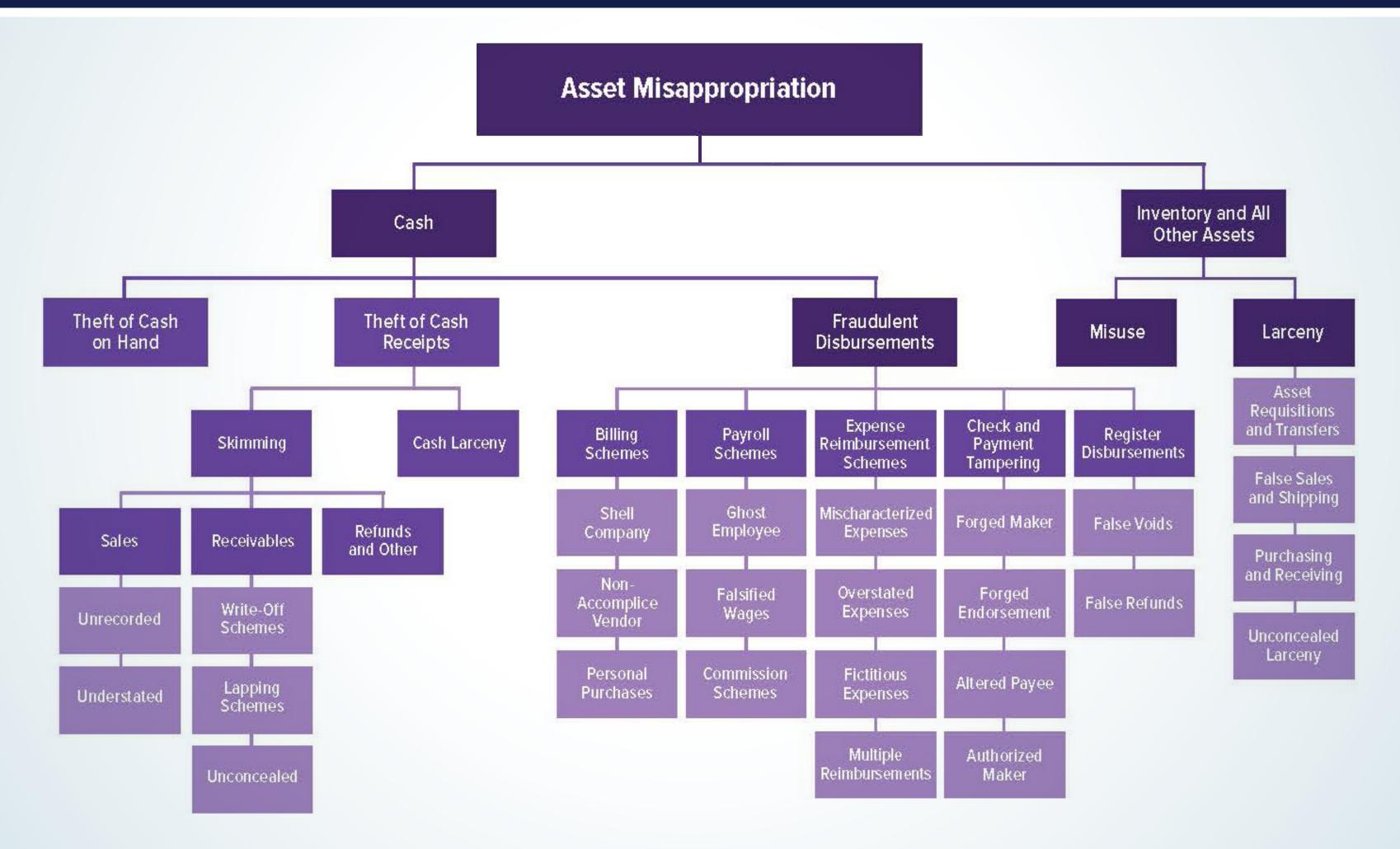


Figure 3. From Report to the Nations 2020® Global Study on Occupational Fraud and Abuse, by the Association of Certified Fraud Examiners, 2020.



HOW IS FRAUD COMMITTED?: THE FRAUD TREE (CONT.)

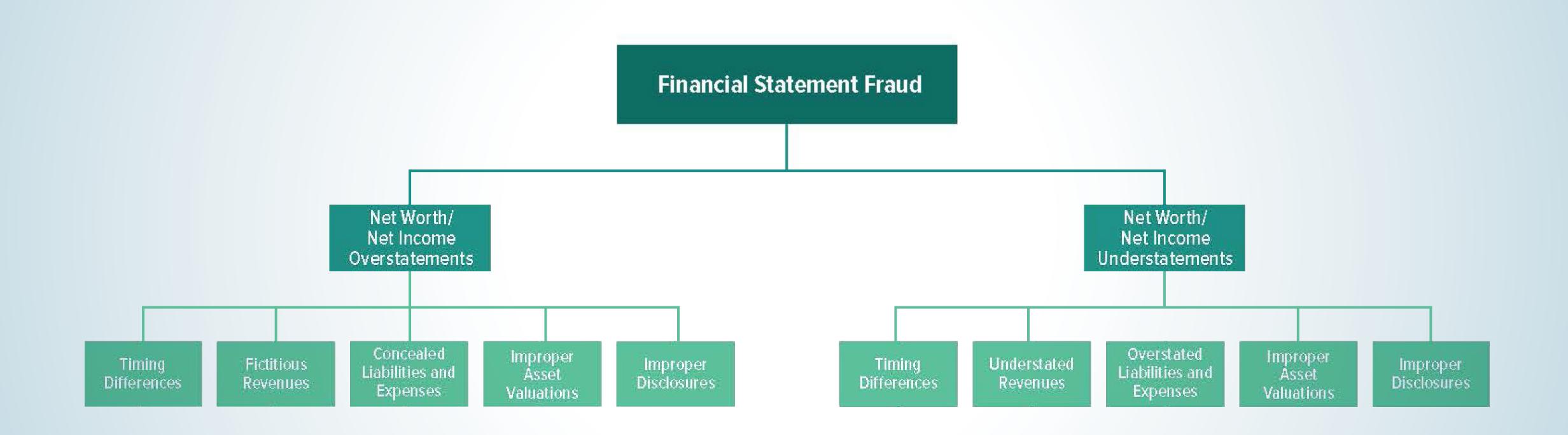


Figure 3. From Report to the Nations 2020® Global Study on Occupational Fraud and Abuse, by the Association of Certified Fraud Examiners, 2020.

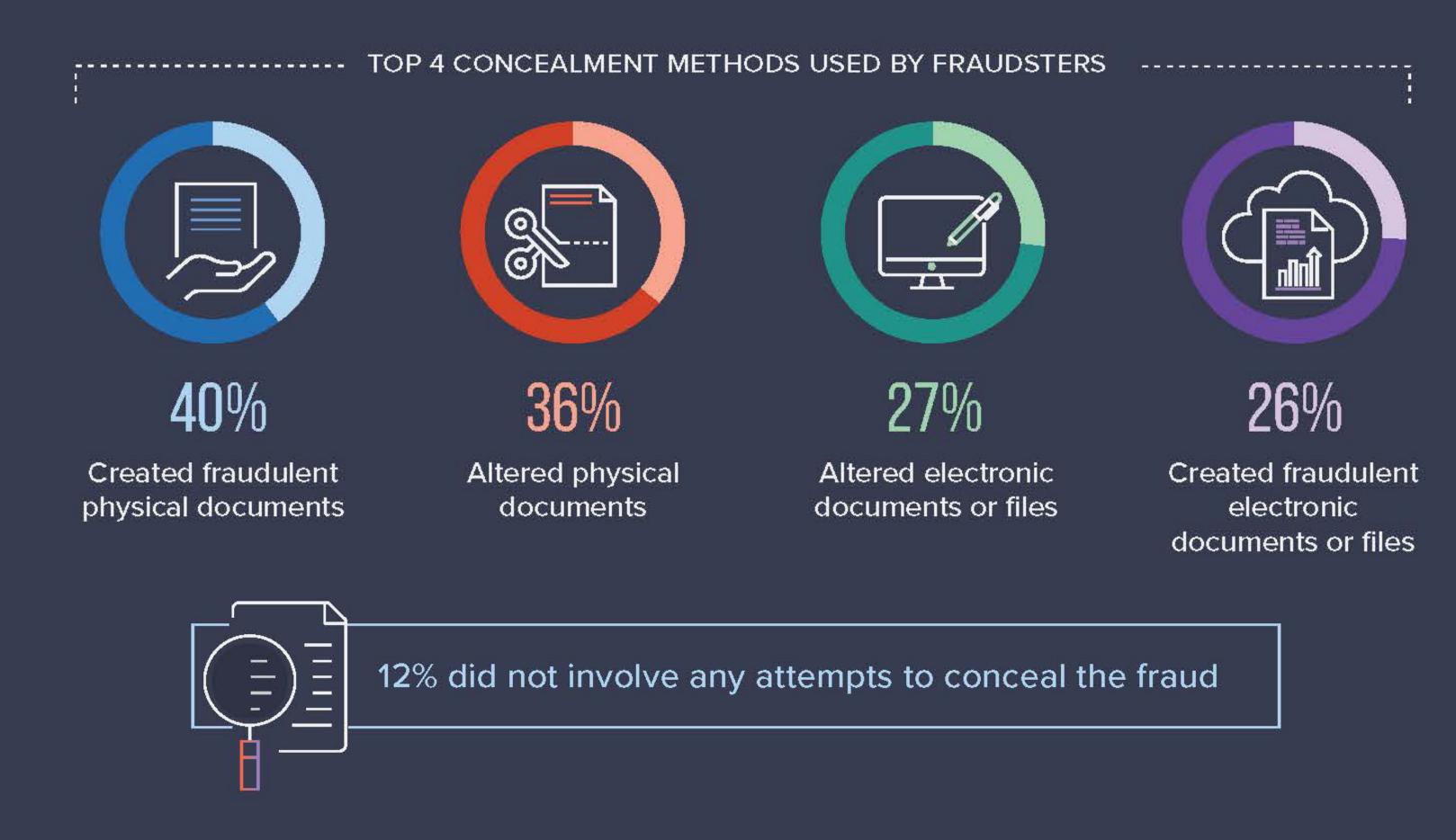


FRAUD CASE #1 — BERNIE MADOFF (2008)

- Founded Bernard L. Madoff Investment Securities LLC (1960)
- » Former Chairman of NASDAQ stock exchange and NASD (National Association of Securities Dealers)
- » In 2008, firm was the sixth-largest market maker in S&P 500 stocks
- Business also included investment management for clients generating reported returns higher than actual returns
- » Ponzi Scheme where funds from new investors helped fund the liquidity needs of exiting investors
- » Secretive operations on separate floor where fictitious statements were generated for investors
- » Survived a failed SEC investigation in 2003 as they "never asked the right questions"
- » In December 2008 there was difficulty in meeting \$7 billion in redemptions
- » Confessed fraud to sons who informed authorities on December 10, 2008
- » Amount "missing" from investors' accounts was \$64.8 billion
- » There were 24,000 victims
- » The Madoff Recovery Initiative reported \$14.4 billion in recoveries and settlements



HOW IS FRAUD CONCEALED?



"How Is Occupational Fraud Committed?". From Report to the Nations 2020® Global Study on Occupational Fraud and Abuse, by the Association of Certified Fraud Examiners, 2020.



WHO IS COMMITTING FRAUD?

HOW DOES THE PERPETRATOR'S LEVEL OF AUTHORITY RELATE TO OCCUPATIONAL FRAUD IN THE UNITED STATES AND CANADA?

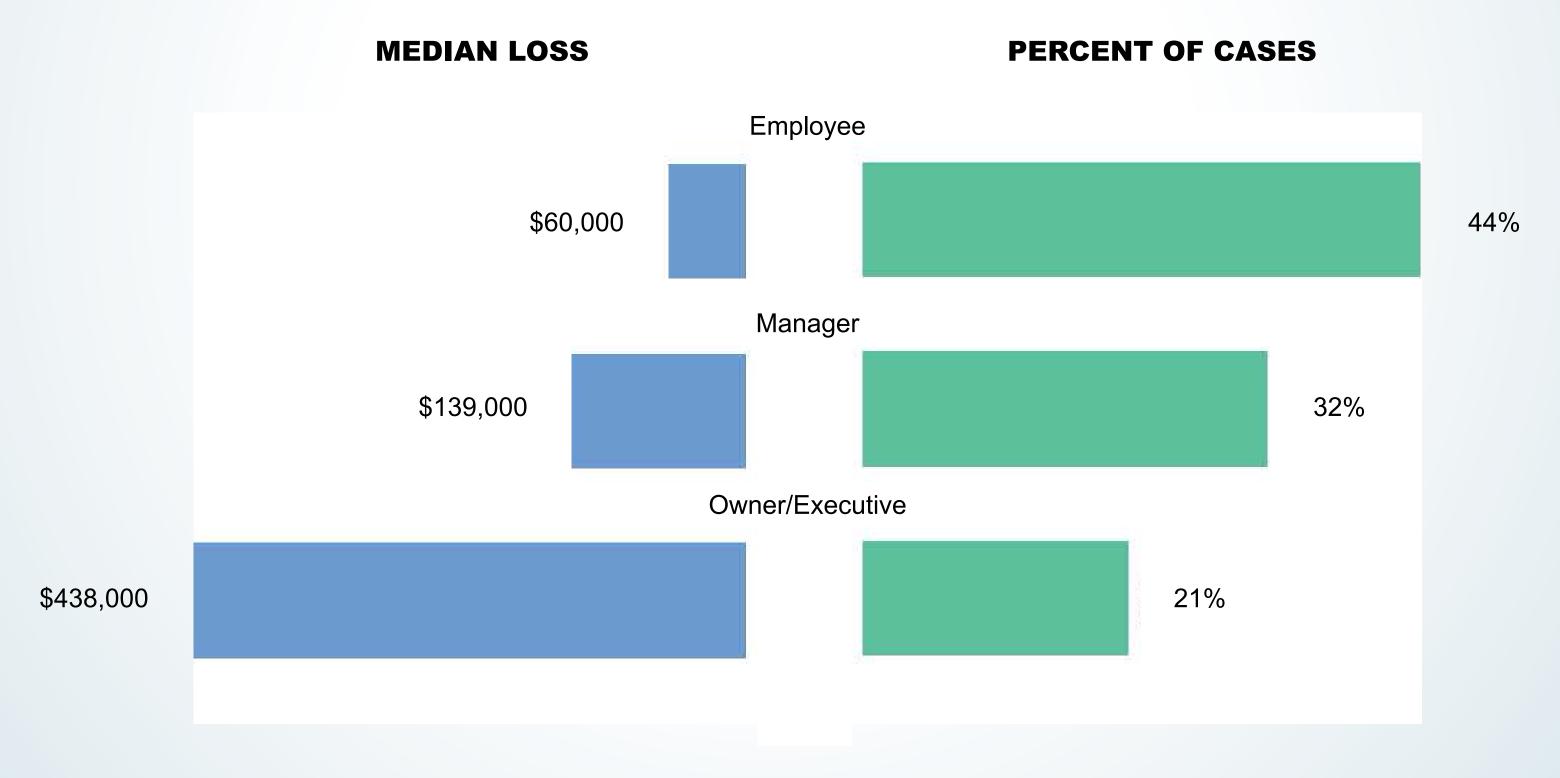


Figure 85. From Report to the Nations 2020® Global Study on Occupational Fraud and Abuse, by the Association of Certified Fraud Examiners, 2020.

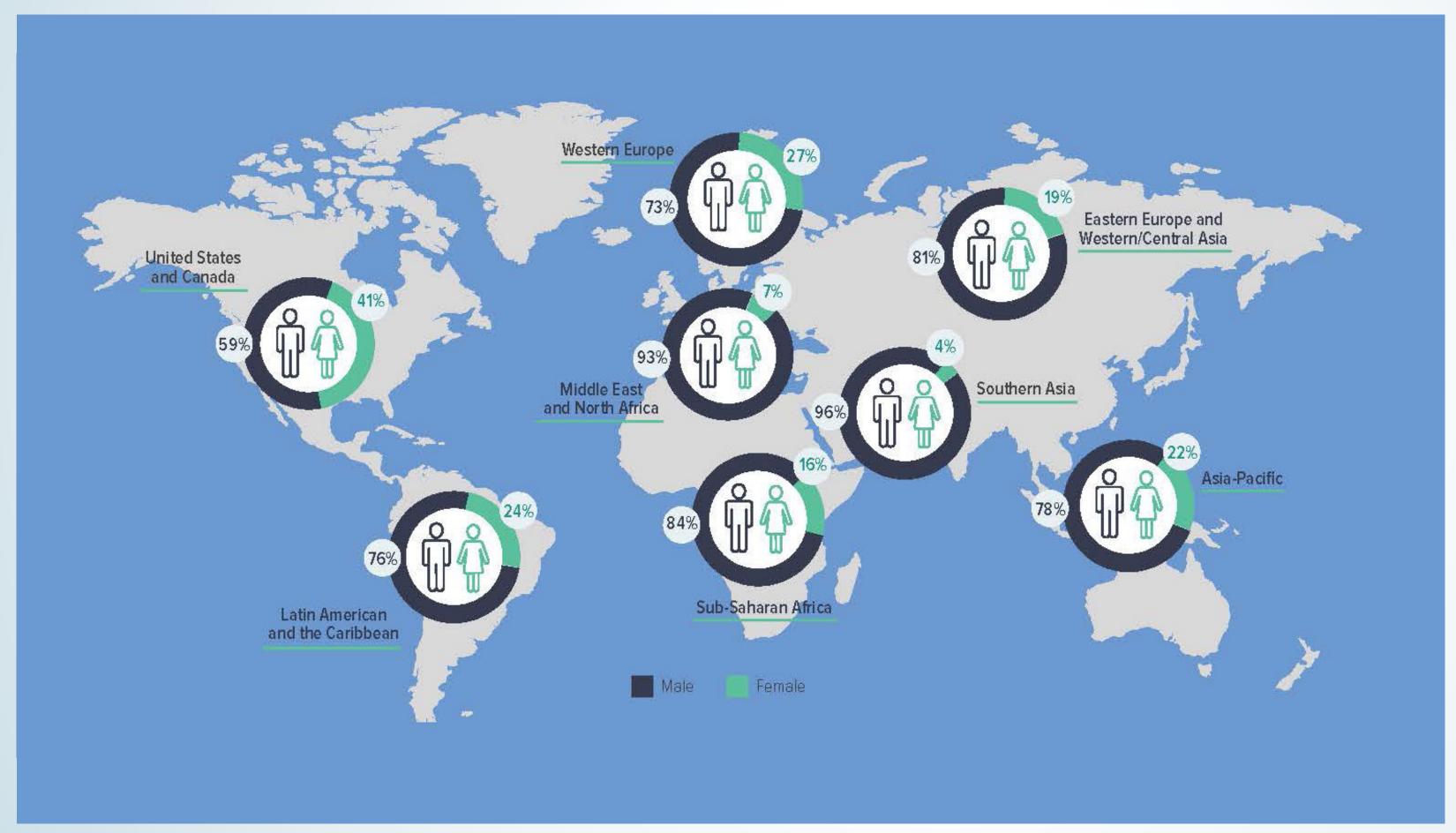


HOW DOES THE PERPETRATOR'S TENURE RELATE TO OCCUPATIONAL FRAUD?



Figure 29. From Report to the Nations 2020® Global Study on Occupational Fraud and Abuse, by the Association of Certified Fraud Examiners, 2020.





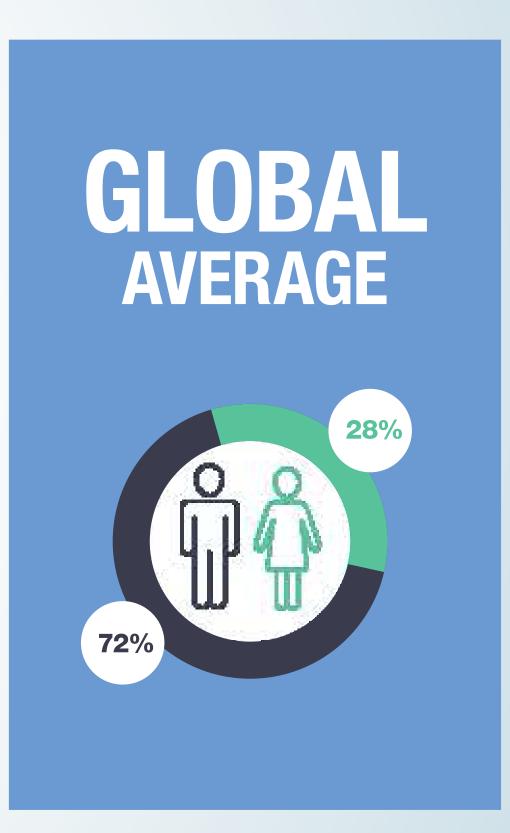


Figure 34. From Report to the Nations 2020® Global Study on Occupational Fraud and Abuse, by the Association of Certified Fraud Examiners, 2020.



HOW DOES THE PERPETRATOR'S AGE RELATE TO OCCUPATIONAL FRAUD?



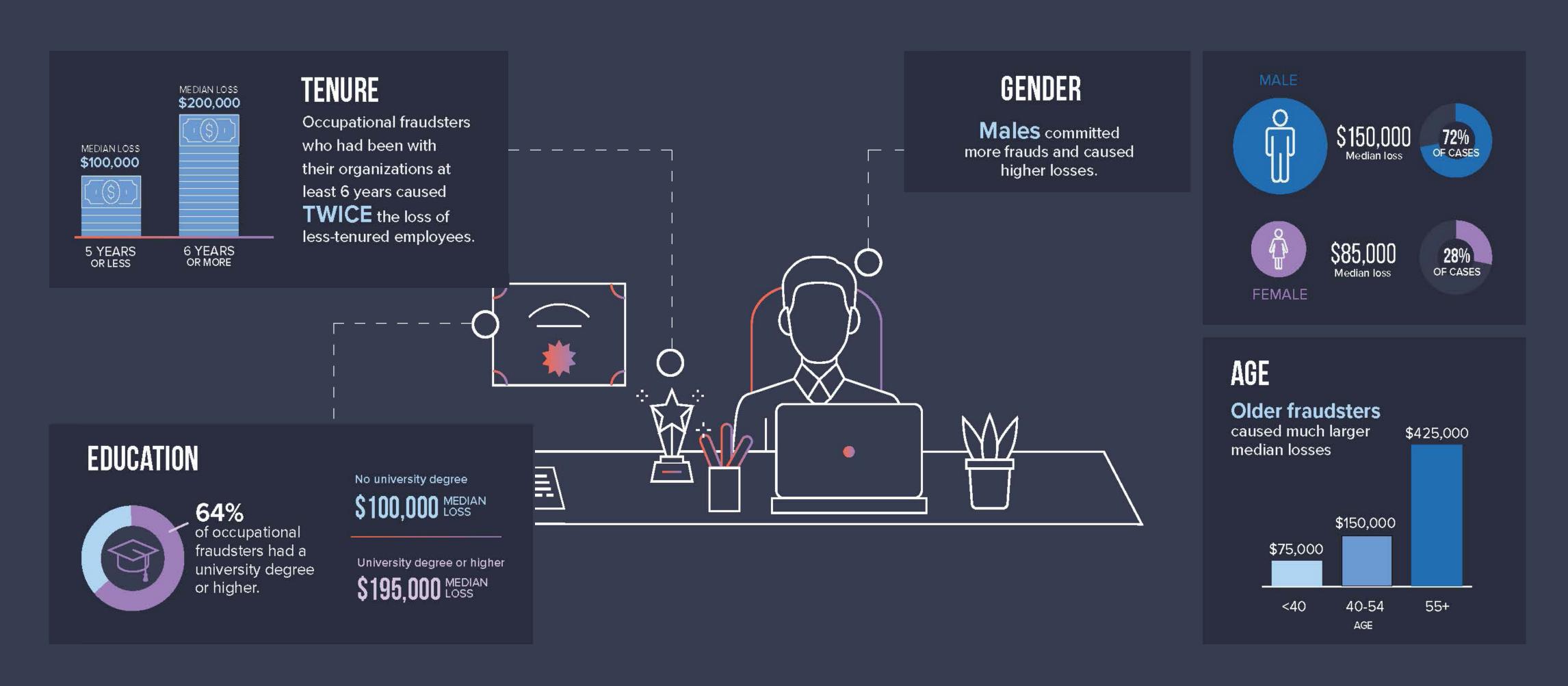






Figure 37. From Report to the Nations 2020® Global Study on Occupational Fraud and Abuse, by the Association of Certified Fraud Examiners, 2020.

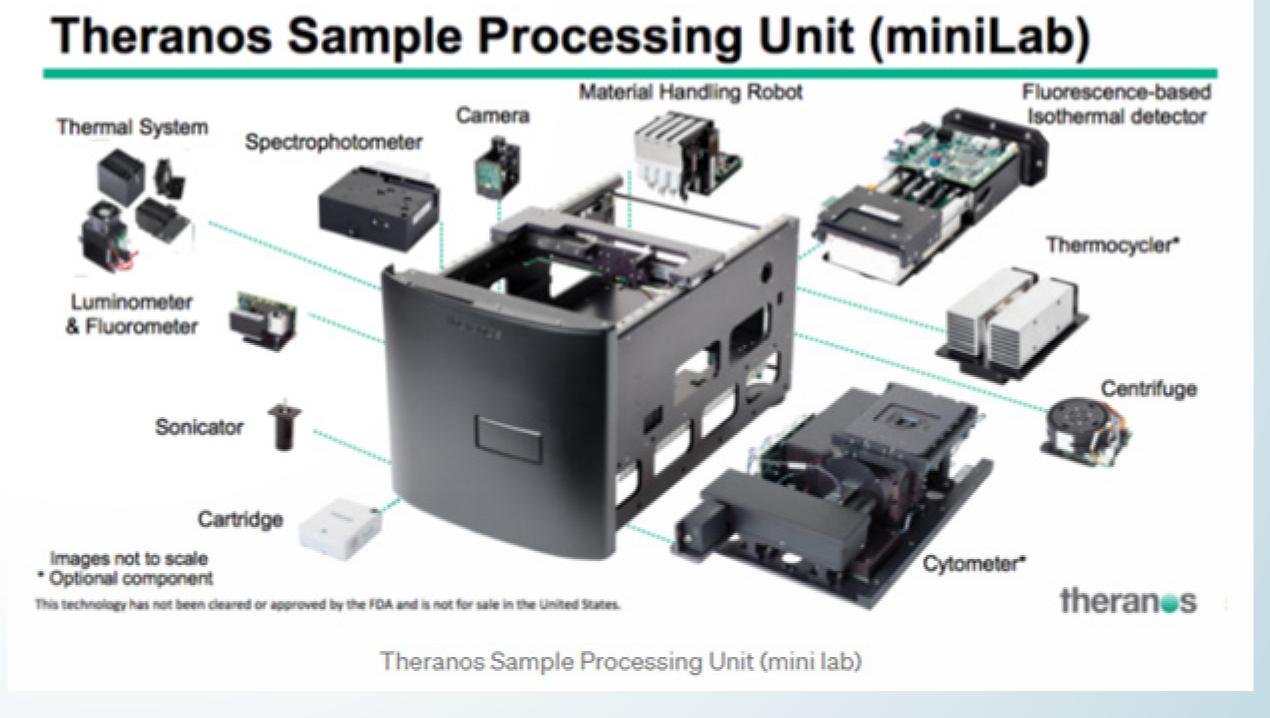






FRAUD CASE #2 — THERANOS

- Founded by Elizabeth Holmes in 2003
- Concept: blood tests to detect health problems could be performed with a few drops from a finger prick
- Raised over \$700 million from investors that included George Schultz, Henry Kissinger, Betsy DeVos, Rupert Murdoch, Larry Ellison, Tim Draper, the Walton Family
- » Valuation rose to over \$9 billion, and employment grew to over 800
- » Developed "Edison"





FRAUD CASE #2 — THERANOS (CONT.)

- » **Problem:** The system and technology never worked. For demonstration testing, they would use other equipment to deliver results.
- » Extremely secretive profile and unwilling to participate in testing to validate technology
- » Falsely asserted Theranos blood tests were used in clinical trials by GlaxoSmithKline and Pfizer
- » In 2012, Safeway invested \$350 million in retro-fitting 800 stores to offer in-store blood testing, but questionable results ended in termination of arrangement in 2015.
- » In 2013, partnered with Walgreen's for blood testing in 40 locations but false information about testing resulted termination and litigation resolved in 2017.
- » In 2015, John Carreyou of The Wall Street Journal reported the testing was being done using traditional testing devices rather that Edison
- » The FDA and other began to focus attention on the Company and its product



FRAUD CASE #2 — THERANOS (CONT.)

- » The SEC began a criminal investigation by April 2016
- In March 2018 the SEC charged Theranos, its CEO Elizabeth Holmes and former president Ramesh "Sunny" Balwani with "elaborate years-long fraud" and "deceived investors into believing that its key product a portable blood analyzer could conduct comprehensive blood tests from finger drops of blood".
- » On June 15, 2018, Holmes and Balwani were indicted on multiple counts of wire fraud and conspiracy to commit wire fraud in that they were aware of the unreliability and inaccuracy of their products but concealed that information from investors, doctors, and patients.
- Trial of Elizabeth Holmes began in September and is continuing
- » Trial of Ramesh "Sunny" Balwani expected to start in 2022



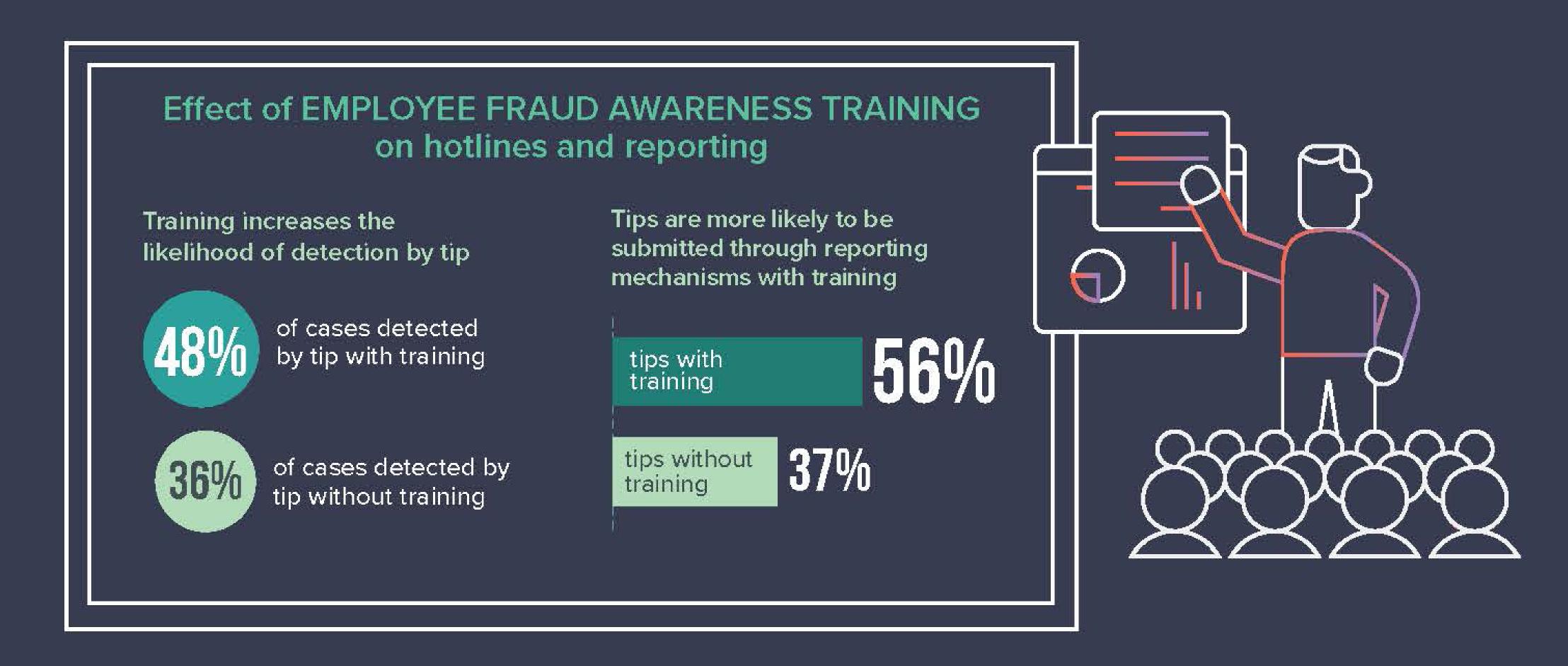
HOW IS FRAUD DETECTED?









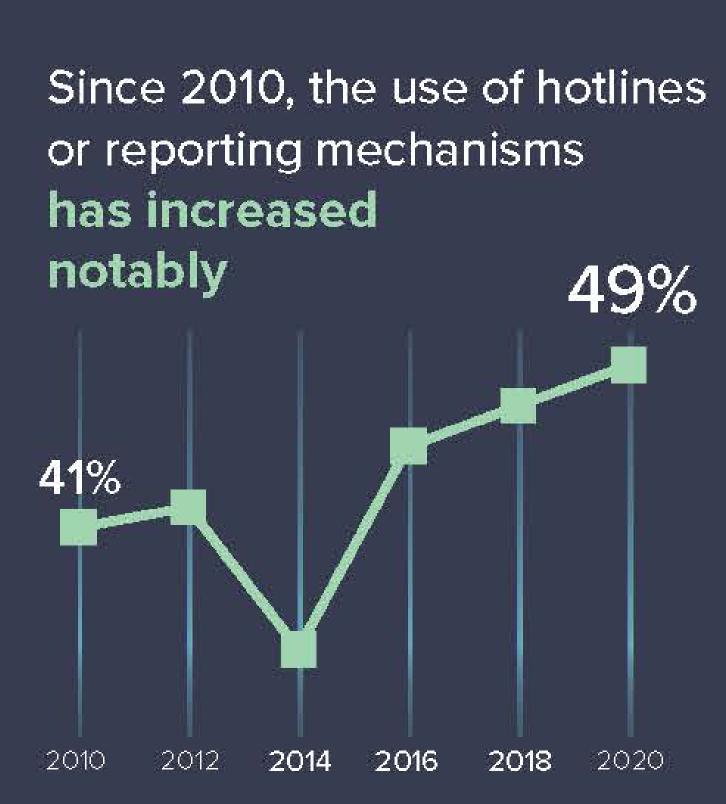




Organizations with hotlines detected fraud by **tip** more often









HOW IS OCCUPATIONAL FRAUD INITIALLY DETECTED IN THE UNITED STATES AND CANADA?

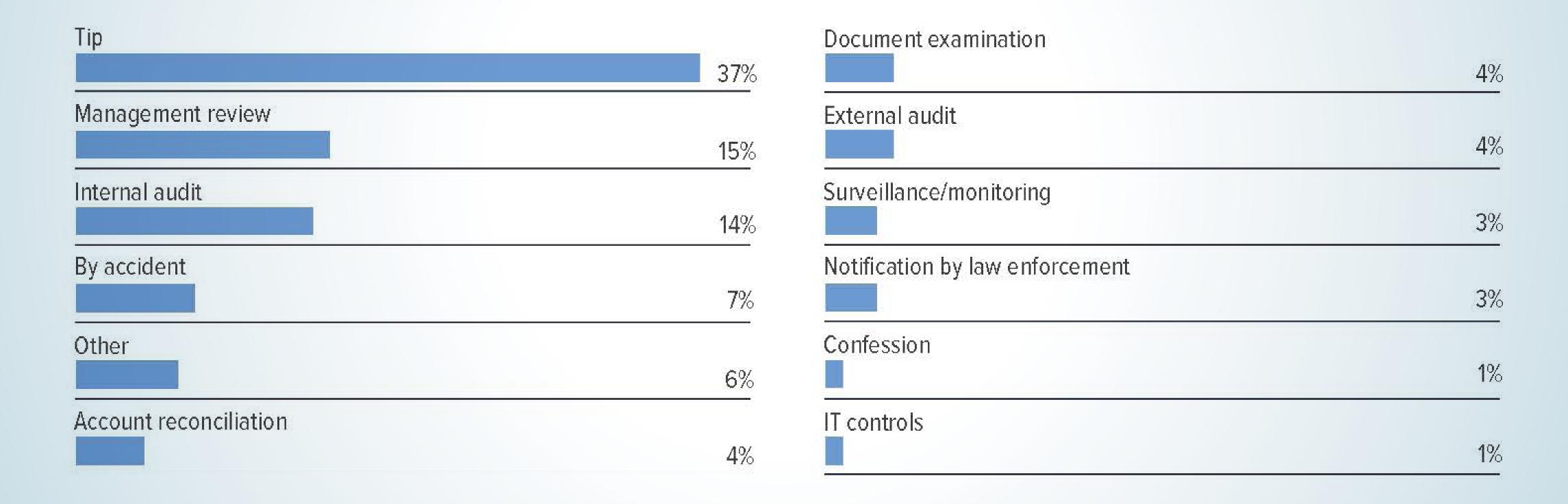


Figure 83. From Report to the Nations 2020® Global Study on Occupational Fraud and Abuse, by the Association of Certified Fraud Examiners, 2020.



TO WHOM DID WHISTLEBLOWERS INITIALLY REPORT FRAUD?

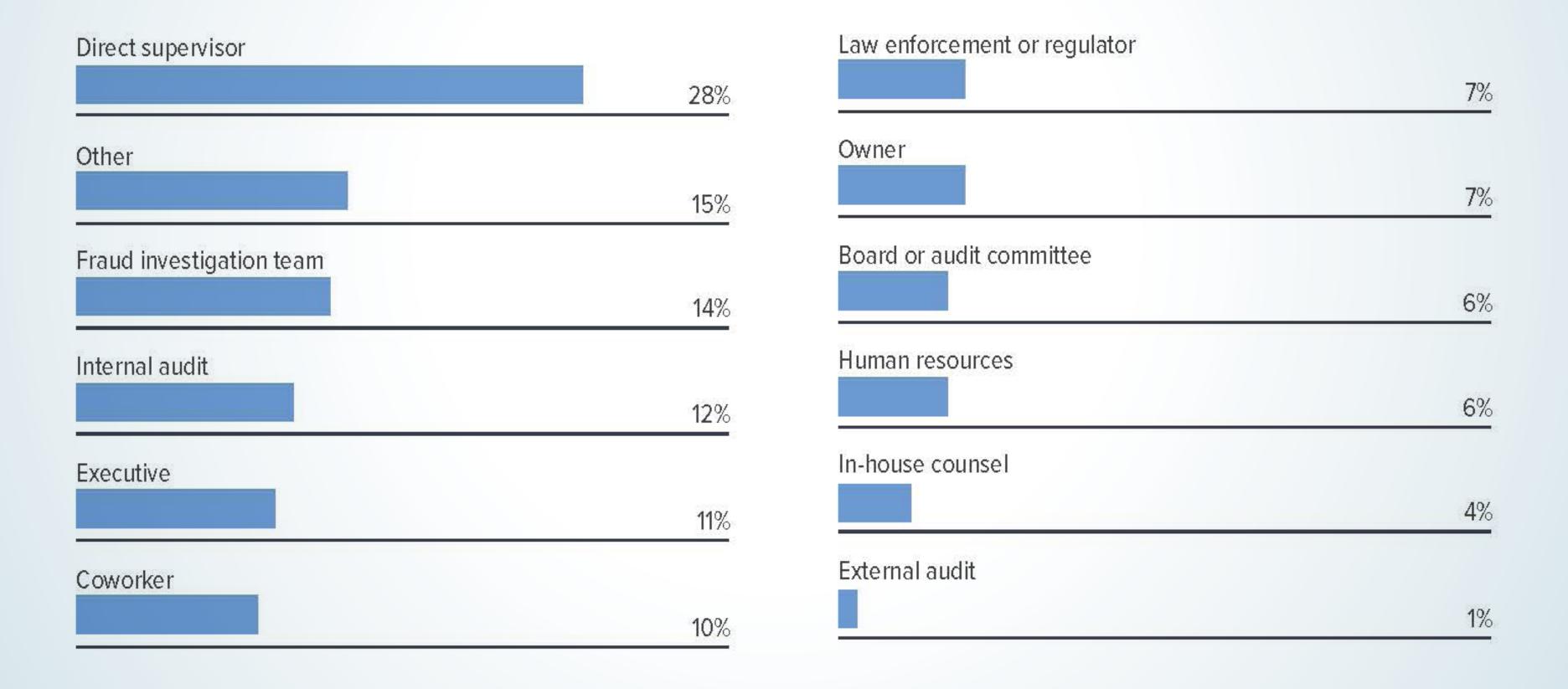


Figure 13. From Report to the Nations 2020® Global Study on Occupational Fraud and Abuse, by the Association of Certified Fraud Examiners, 2020.



WHAT TYPES OF ORGANIZATIONS ARE VICTIMIZED BY OCCUPATIONAL FRAUD?

Figure 14. From *Report to the Nations 2020® Global Study on Occupational Fraud and Abuse*, by the Association of Certified Fraud Examiners, 2020.





WHAT ARE THE MOST COMMON OCCUPATIONAL FRAUD SCHEMES IN THE UNITED STATES AND CANADA?

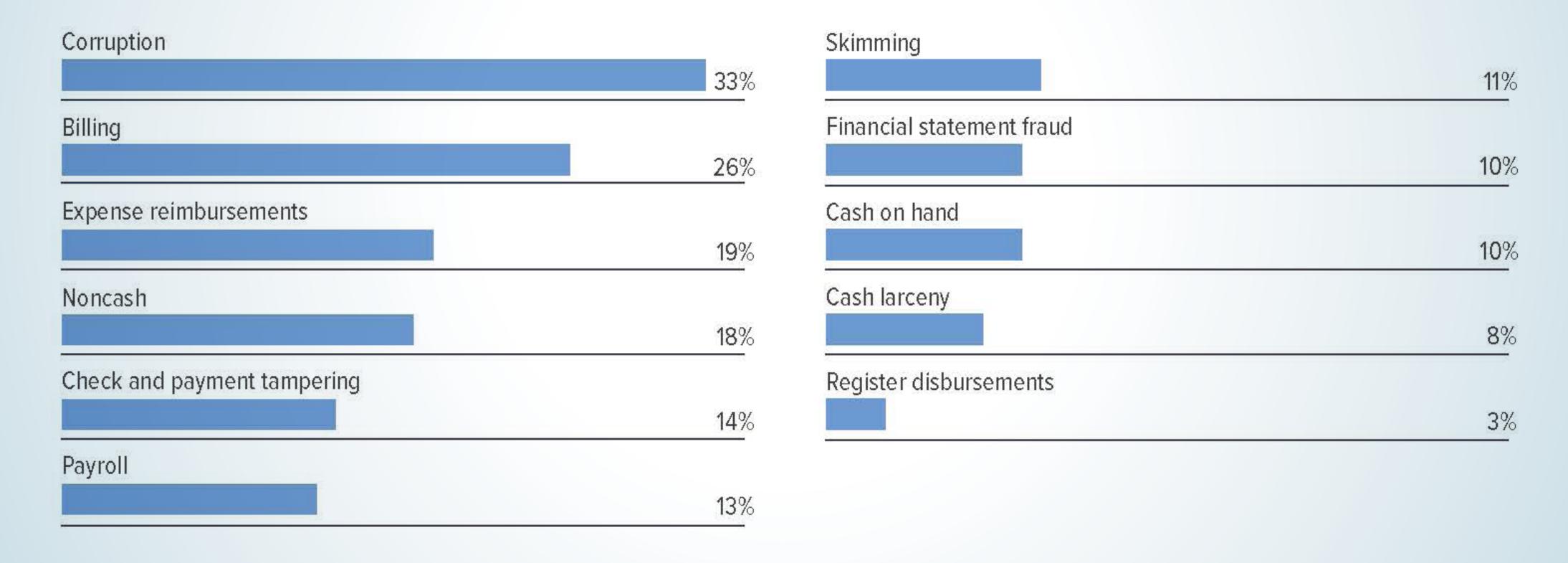


Figure 82. From Report to the Nations 2020® Global Study on Occupational Fraud and Abuse, by the Association of Certified Fraud Examiners, 2020.



HOW DO FRAUD SCHEMES VARY BY ORGANIZATION SIZE?

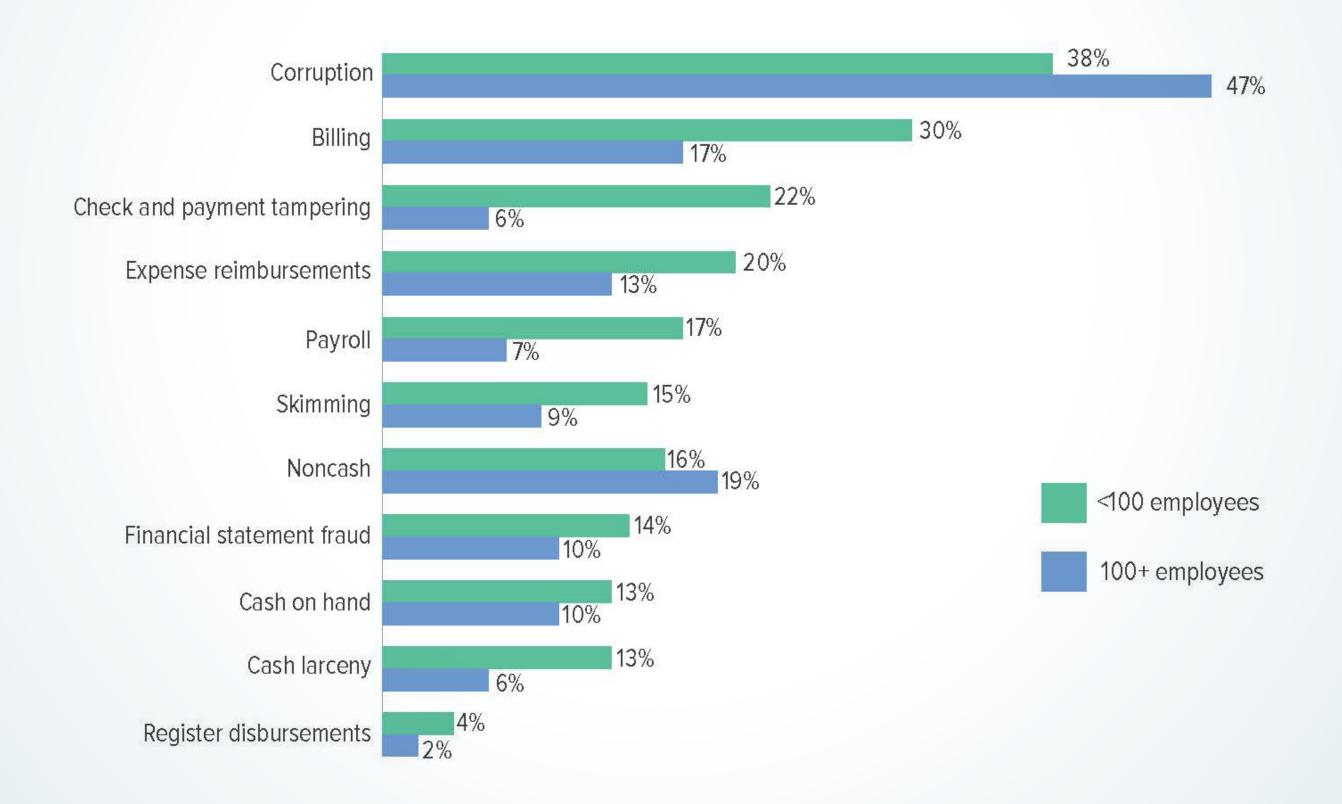


Figure 18. From Report to the Nations 2020® Global Study on Occupational Fraud and Abuse, by the Association of Certified Fraud Examiners, 2020.



WHAT ANTI-FRAUD CONTROLS ARE THE MOST COMMON IN THE UNITED STATES AND CANADA?

Control	Percent of cases	Control	Percent of cases
Code of conduct	80%	Fraud training for managers/executives	51%
External audit of financial statements	72%	Fraud training for employees	51%
Internal audit department	71%	Anti-fraud policy	44%
Employee support programs	71%	Proactive data monitoring/analysis	38%
Management review	68%	Formal fraud risk assessments	35%
Management certification of financial statements	67%	Dedicated fraud department, function, or team	33%
Independent audit committee	61%	Surprise audits	28%
Hotline	57%	Job rotation/mandatory vacation	15%
External audit of internal controls over financial reporting	54%	Rewards for whistleblowers	10%

Figure 84. From Report to the Nations 2020® Global Study on Occupational Fraud and Abuse, by the Association of Certified Fraud Examiners, 2020.



FRAUD CASE #3 — DIAMOND FOODS

- » Diamond Foods was founded as a cooperative of California walnut growers in 1912
- » Through many changes, it became a public company in 2005 (NASDAQ: DMND)
- » In 2008 it acquires Pop Secret popcorn from General Mills
- » By 2009 its Emerald brand accounts for 10% of the snack nut market in the U.S.
- » Closely followed by Wall Street analysts with pressure to continue meeting performance expectations
- » In 2010 it acquires the Kettle Foods potato chip company
- » In 2011 Proctor & Gamble announced the Pringles would merge with Diamond Foods
- For walnut growers, the company made a payment at the beginning of the season for the crop resulting in a prepaid expense. With the market increase in walnut prices in 2010, the company needed to pay more to its growers in order to maintain long-standing relationship. To meet the analysts' performance expectations, the company failed to correctly record the costs of walnuts paid to suppliers and instead incorrectly increased the prepaid expense.



FRAUD CASE #3 — DIAMOND FOODS (CONT.)

- » In 2012 the Pringles transaction was called off
- After restating financial results in November 2012, the company's stock price dropped to \$17 per share from a high of \$90 per share in 2011
- The SEC filed charges against the former CEO and CFO in January 2014 which were subsequently settled
- » In 2016 Snyder's-Lance acquired Diamond Foods



THE LATEST IN FINANCIAL FRAUD CASES AND EFFECTIVE METHODS TO PREVENT IT



ACCOUNTING DAY® 2021 MONDAY, OCTOBER 25

AGENDA 10:15 — 12:10

- Fraud Case #4 Wirecard
- Tone at the Top How Do You Prevent Fraud?
- Fraud Risks from the New Lease Accounting Standard
- Rise of the New Ethics Class
- Closing Thoughts/Questions



FRAUD CASE #4 — WIRECARD



(SEPARATE SLIDE DECK)





Monitoring Activities

RELATIONSHIP OF OBJECTIVES AND COMPONENTS

A direct relationship exists between objectives, which are what an entity strives to achieve, components, which represent what is required to achieve the objectives, and the organizational structure of the entity (the operating units, legal entities, and other). The relationship can be depicted in the form of a cube.

- » The three categories of objectives—operations, reporting, and compliance—are represented by the columns.
- » The five components are represented by the rows.
- » An entity's organizational structure is represented by the third dimension.





COMPONENTS AND PRINCIPLES

The Framework sets out seventeen principles representing the fundamental concepts associated with each component. Because these principles are drawn directly from the components, an entity can achieve effective internal control by applying all principles. All principles apply to operations, reporting, and compliance objectives. The principles supporting the components of internal control are listed below.

CONTROL ENVIRONMENT

- 1. The organization² demonstrates a commitment to integrity and ethical values.
- 2. The board of directors demonstrates independence from management and exercises oversight of the development and performance of internal control.
- 3. Management establishes, with board oversight, structures, reporting lines, and appropriate authorities and responsibilities in the pursuit of objectives.
- 4. The organization demonstrates a commitment to attract, develop, and retain competent individuals in alignment with objectives.
- 5. The organization holds individuals accountable for their internal control responsibilities in the pursuit of objectives.

2 For purposes of the Framework, the term "organization" is used to collectively capture the board, management, and other personnel, as reflected in the definition of internal control. Committee of Sponsoring Organizations of the Treadway Commission (COSO), *Internal Control - Integrated Framework*, May 2013.





RISK ASSESSMENT

- 6. The organization specifies objectives with sufficient clarity to enable the identification and assessment of risks relating to objectives.
- 7. The organization identifies risks to the achievement of its objectives across the entity and analyzes risks as a basis for determining how the risks should be managed.
- 8. The organization considers the potential for fraud in assessing risks to the achievement of objectives.
- 9. The organization identifies and assesses changes that could significantly impact the system of internal control.

CONTROL ACTIVITIES

- 10. The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- 11. The organization selects and develops general control activities over technology to support the achievement of objectives.
- 12. The organization deploys control activities through policies that establish what is expected and procedures that put policies into action.





INFORMATION AND COMMUNICATION

- 13. The organization obtains or generates and uses relevant, quality information to support the functioning of internal control.
- 14. The organization internally communicates information, including objectives and responsibilities for internal control, necessary to support the functioning of internal control.
- 15. The organization communicates with external parties regarding matters affecting the functioning of internal control.

MONITORING ACTIVITIES

- 16. The organization selects, develops, and performs ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning.
- 17. The organization evaluates and communicates internal control deficiencies in a timely manner to those parties responsible for taking corrective action, including senior management and the board of directors, as appropriate.





NEW GUIDANCE FOR APPLYING COSO FRAMEWORK TO HELP UTILIZE AI (ARTIFICIAL INTELLIGENCE) POTENTIAL

- » Acknowledgment of expanded AI use and impact on business operations
- » Research indicates 75% of companies expect AI to have a significant impact within 3 years

Building of algorithms requires close scrutiny

- » Non-deep learning such as regression analysis
- » Deep-learning such as conversational bots in customer service websites
- » Reinforcement learning models such as routine optimization





NEW GUIDANCE FOR APPLYING COSO FRAMEWORK TO HELP UTILIZE AI (ARTIFICIAL INTELLIGENCE) POTENTIAL (CONT.)

The process of AI implementation should be connected to the five ERM components

- Governance & culture
- Strategy & objective-setting
- » Performance
- » Review & revision
- » Information, communication, & reporting

Five-point call to action:

- » Establish a governance structure for the Al program
- Get an Al risk strategy together
- » Take the initiative with an AI risk assessment
- » Develop a portfolio view of risks and opportunities for AI initiatives
- » Lay out an approach to manage Al risks and report to stakeholders for transparency



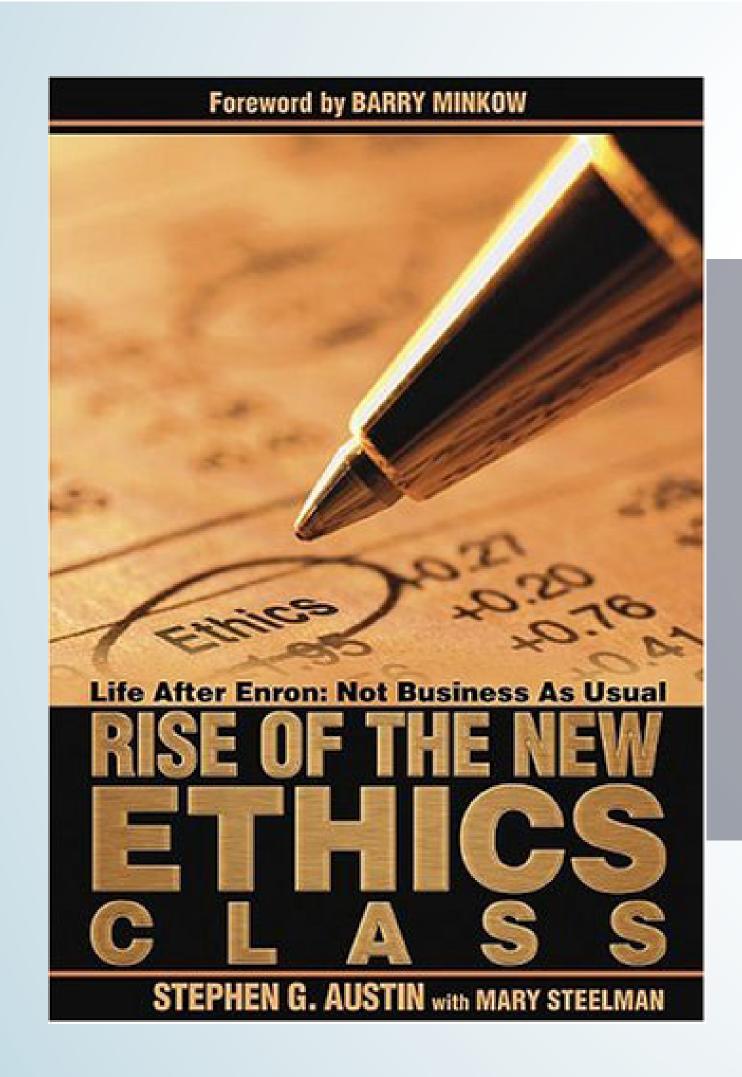
FRAUD RISKS FROM THE NEW LEASE ACCOUNTING STANDARD

- » Failure to identify and account for all leases including embedded leases
- » Failure to identify "reasonably certain" lease term when there are renewal options
- » Failure to recognize impairment when needed
- » Error in lease classification resulting in misstatement of interest
- » Recognizing a gain on a "failed" sale and leaseback transaction



RISE OF THE NEW ETHICS CLASS





Life After Enron: Not Business As Usual RISE OF THE NEW ETHICS CLASS





CLOSING THOUGHTS/QUESTIONS

- » How will COVID-19 workplace changes where more work is now being done remotely affect the risk of fraud?
- » ACFE Report, December 2020, "Fraud in the Wake of COVID-19: Benchmarking Report"
 - 79% of respondents had seen an increase in fraud
 - Cyberfraud identified as most heightened area of risk
- What will be the future impact on fraud from the social changes whereby the repeated bombardment of misinformation affects the perception of facts?



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