



# Insights: Top Disputes & Investigations

Forensic Investigations





## Forensic Investigations

The COVID-19 global pandemic is provoking vast regulatory, economic and legal changes. These changes will create more opportunities for malfeasance as well as increased interest on the part of companies to control and detect wrongdoing.

At FTI, we have extensive experience in conducting investigations. Whether it is investigating complicated Ponzi schemes, improper stock trading practices or billing fraud, our forensic investigations team of accountants, economists, statisticians, and business experts can smartly and efficiently sift through complex data to support legal strategy or act as an independent investigator. In this section, of our **2020 Insights: Top Disputes & Investigations**, we highlight our work helping clients resolve disputes on major Forensic Investigations projects.

# Theft of Trade Secrets

A global engineering, procurement, construction and installation company was accused of using stolen trade secrets to win a \$2 billion contract. The company asked FTI Consulting to help resolve the complaint.

The Plaintiff accused our client of stealing trade secrets by recruiting an executive from within the Plaintiff's ranks. The Plaintiff believed that our client was provided with the Plaintiff's bid strategy and pricing for a significant contract that both the Plaintiff and our client were bidding on.

Our forensic accountants and engineering experts verified that the client's cost estimation system and bidding procedures for the contract followed internal controls that conform to industry best practices and that there was no evidence that any theft occurred, or that it was even necessary to steal the trade secrets. Major bid price changes that occurred during bid development were traced to their sources and determined to be legitimate cost-saving strategies resulting from better vendor pricing and cost-savvy business decisions, not the illicit use of trade secrets. The Plaintiff's bid price changes were also traced to their internal email communications which showed the Plaintiff's pricing decisions were focused on narrowly undercutting our client's bid, rather than true project costs.

Two expert reports were issued; both experts were deposed. The case settled favorably for our client on the eve of trial.

## Subject Matter Experts



**Gary Goolsby**  
Senior Managing Director



**Joshua Sullivan**  
Senior Director

# SEC Whistleblower Inquiry

A whistleblower at a public company reported alleged irregularities in revenue recognition to the SEC. The alleged scheme overcharged customers to earn higher personal sales commissions and hid the overcharges in the company's bundled services billings through a loophole in the company's internal controls. The overcharges resulted in alleged misstatements of revenue, sales commission expenses, and net income by the company.

To help the company respond to the SEC, FTI Consulting's team of forensic accountants designed and performed complex sample-based tests of the sales transactions across several years preceding and following the company's IPO. Over the course of nearly a year, our engagement gave us a deep understanding of the company's sales transaction processing and its revenue cycle, and we were able to report the results from our sample testing design with extremely high confidence and precision. Our work led to several successful meetings with the SEC, the company's audit committee, and its auditor to help resolve the complaint.

## Subject Matter Experts



**David Lasater**  
Senior Managing Director



**Joshua Sullivan**  
Senior Director



# Investigation to Remediate Defrauded Investors in Ponzi Scheme

A brokerage firm was accused of orchestrating a Ponzi scheme to defraud investors and FTI Consulting was brought in to assess the situation and perform an analysis on the transaction inflows and outflows as a precursor to recovering defrauded investors' funds and paying out claims.

A team of FTI's forensic accountants created a detailed flow of funds analysis using data collected directly from the related financial institutions involving cash transfers in the U.S. and abroad. The analysis showed each investor's activity over a period of several years, including individual deposits, dividends, income, trading gains and withdrawals. This intricate analysis assessed losses sustained by investors who had never made withdrawals and identified specific accounts where withdrawals exceeded deposits by millions of dollars.

These findings prompted further investigation by FTI, ultimately uncovering an additional scheme in which certain parties related to the brokerage firm were benefiting directly from the Ponzi scheme. This discovery led to an additional dispute involving FINRA for which FTI provided expert witness analysis and testimony.

## Subject Matter Experts



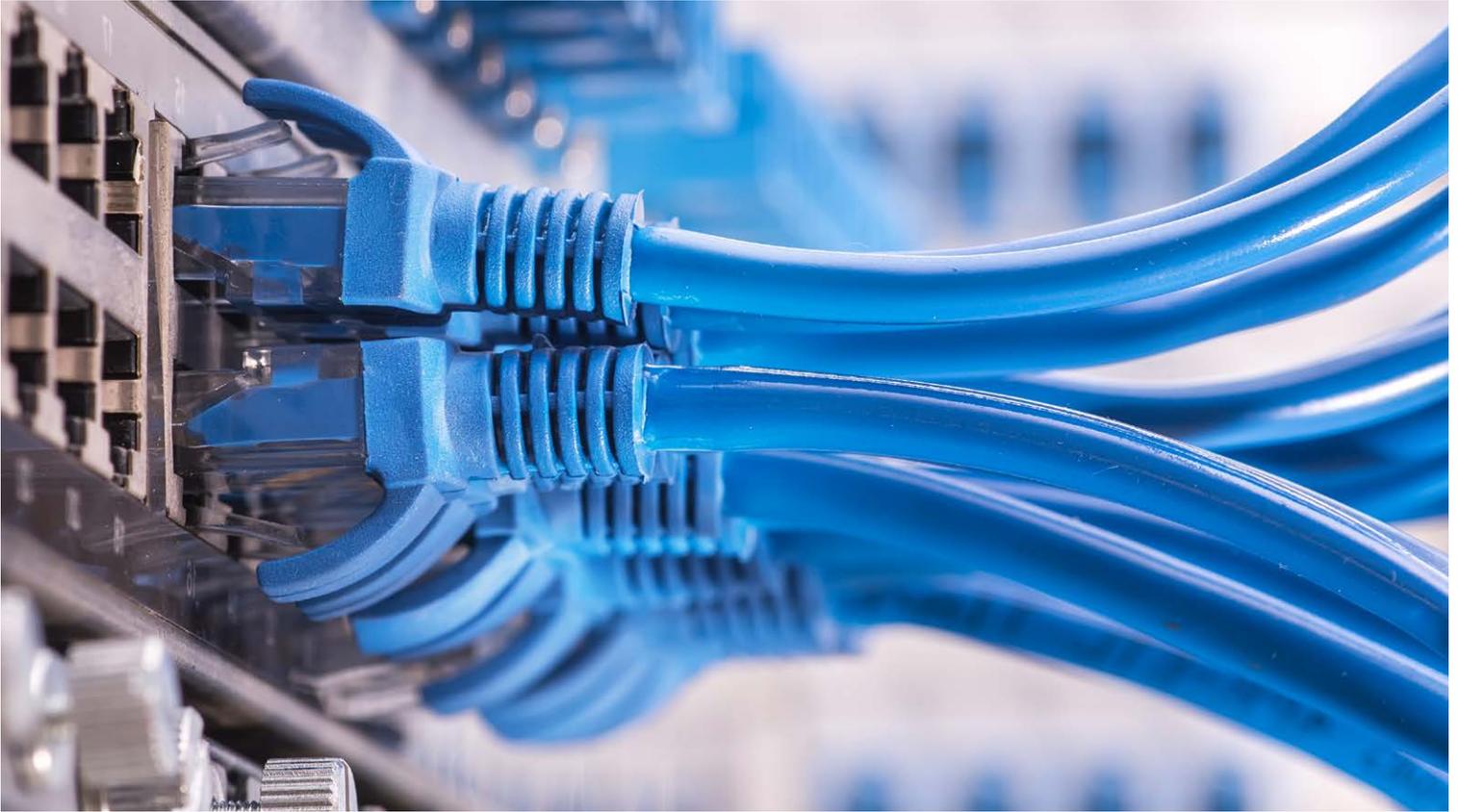
**Matt Greenblatt**  
Senior Managing Director



**Jeremy McGannon**  
Managing Director



**Brian Clutter**  
Senior Director



## Improper Stock Options Practices

The Board of Directors of a global telecommunications company retained FTI Consulting as an independent forensic accounting firm to investigate certain stock-option practices and to ensure such practices were compliant with federal and state laws. During the course of our investigation, we discovered that the former stock option administrator had been embezzling millions of dollars from the company over a period of several years.

FTI uncovered the scheme after exhaustive discovery and forensic analysis of terabytes of data sourced from the company's stock option databases; back-up tapes; human resources databases; and transfer agent records provided by the company's transfer agent. In order to unravel the scheme, the engagement team searched for, identified, and extracted information from multiple sources of information – which was used to expose the intricate steps used to successfully mislead internal and external auditors. FTI's work concluded with testimony to the SEC and was ultimately used to support a criminal conviction.

In the end, the former stock option administrator admitted to using his position to fraudulently issue hundreds of thousands of shares of the company's stock to a brokerage account he controlled and then selling them for a net gain of millions of dollars. Faced with the evidence provided by FTI, he pleaded guilty in U.S. District Court to one count of wire fraud and one count of tax evasion.

### Subject Matter Experts



**David Alfaro**  
Senior Managing Director



# When the DOE Comes Knocking at Your Door

FTI Consulting was engaged by a global engineering company to independently investigate and respond to the Department of Energy's (DOE) inquiries regarding historical and current billing practices associated with their government contract. More specifically, FTI assisted the company in assessing whether it charged the DOE the premium portion of the labor costs for training on overtime in violation of Federal Acquisition Regulation-specific unallowable costs (FAR 31.205-44).

FTI was tasked to develop and subsequently execute upon a response plan to the DOE's inquiry, which included designing a methodology to identify and quantify the premium portion paid for such training through a combination of comprehensive data analytics and inferences drawn from statistically meaningful samples (i.e., where manual review of time and training records was impractical and/or unreasonable). Upon completion of our work, FTI prepared a Procedures and Findings Report to thoroughly document the implementation of the plan. Our report addressed:

- The data supporting the plan's execution;
- The assumptions employed to interpret the data;
- The methodology followed to analyze the data; and,
- The specific findings discovered upon the completion of our work.

The purpose of our report was to provide the DOE with an auditable record of our work, which could be independently replicated and verified if desired.

After thoroughly comparing the company's formal training records with the company's timekeeping records, FTI identified the maximum number of premium hours of training that could have possibly been conducted during overtime. FTI's work concluded with a presentation to the DOE regarding our procedures and findings.

## Subject Matter Experts



**David Alfaro**  
Senior Managing Director



**Robert Gardner, Jr.**  
Managing Director

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