



THE NEW ERA OF FRAUD TACTICS: Data Considerations for Maximising Recoveries in Tech-Driven Ponzi Schemes

In one of the largest Ponzi schemes in U.S. history, penny-auction site ZeekRewards defrauded hundreds of thousands of people worldwide, to the magnitude of more than \$822 million in victim losses.

ZeekRewards encouraged participants to drive visitors to the auction site by purchasing “VIP” bids and subsequently giving them to potential “customers.” For each VIP bid given away to potential customers, a VIP point was awarded. VIP points were subsequently totalled and ZeekRewards shared a percentage of the site’s daily revenue with participants based upon their balance. The daily award could be taken as a cash award or VIP bids that could then be given away to generate more VIP points and a higher daily award. As it turns out, this mechanism represented the crux of the fraud.

In addition to the staggering size and scope that makes this case historic, it also marks a new era of fraud tactics that attorneys and investigators must be prepared to face for the foreseeable future. Unlike traditional brick and mortar fraud cases, an increasing number of Internet-based or mobile schemes like ZeekRewards are emerging, presenting a complicated range of challenges and opportunities for asset recovery.

When it comes to investigating these technology-driven matters, which typically are supported by loosely maintained financial books and records, attorneys in receivership roles and their investigative forensic accountants can no longer solely rely on their standard approaches of reconciling losses against a general ledger. As with the ZeekRewards investigation, the underlying information and data points become extremely complex,

making it difficult to piece together the fraud, identify the flow of funds, and ultimately recover victim assets. Following the SEC shutdown of ZeekRewards, our team at FTI Consulting was engaged to work with the receiver representing the victims to prove the fraud, identify losses and maximise asset recovery.

ZeekRewards was so widespread that before it was shut down by the SEC in 2012; it was identified by volume as a Top 30 website worldwide, generating an estimated \$900 million in transactions. Most of those transactions were conducted by mail with cheques or money orders, and the company kept no books or records other than retaining deposit and withdraw information in an archaic transactional database. Given the haphazard nature of the data available to our team and the overall lack of information, we relied on advanced analytics

tools and investigations skills to locate evidence. Leveraging structured data analytic techniques, FTI Consulting applied sensitivity analyses that recreated how the program worked, identified the way in which money flowed in and out of the company, and traced recoverable funds. To date, approximately 349,000 cheques have been issued to victims holding an approved claim, bringing overall recovery to 75 percent.

In many ways, the internet has taken away the ability for forensic accountants to utilise their traditional investigative practices. This development is forcing the profession to refresh its approach to uncovering transactions in an investigation, including becoming capable in e-discovery best practices and how to apply them in accounting workstreams. Technology is greatly changing accounting and how criminals commit fraud and the work done on the ZeekRewards case provides actionable insights for how to handle investigations and asset recovery efforts for matters lacking clean books or a general ledger. With the right approach of carefully piecing together the moving parts, it is possible to maximise recovery for victims by identifying the asset flow and restoring a higher percentage of losses. Below is an overview of steps taken on the ZeekRewards matter and recommendations for how these approaches can be applied to similar cases.

Gaining Understanding of the Program

As a necessary first step, it is key to identify the data sources, the transactional data and the relationship between how the scheme worked and the resulting data footprint. This will enable investigators to identify all sources of funding input and gain insight into the inner workings of the scheme. This is the critical time to locate potential inside cooperators that can be interviewed for additional information.

In the ZeekRewards case, we established two multi-tiered, side-by-side workflows. The first was a team of accountants working through traditional processes of reviewing the stream of funds from subpoenaed bank statements to confirm relationships and locating records for related deposits and withdrawals. The second was the investigation to determine how the program worked through collection of data available and application of technology to that data to analyse and recreate the full picture of transactional activities. FTI Consulting leveraged forensic copies of the transactional databases that ZeekRewards maintained in SQL. With no available data dictionaries and limited access to key company personnel, FTI Consulting assessed the data provided: Three disparate enterprise databases, containing over 400 tables with over 1.5 billion rows of transactional data. A technical program was developed to systematically run distributions on each table to identify the type and volume of records and fields contained within and the summary statistics. The results of these findings identified the key data on which to focus additional research.

Identification of Books and Records

When a case is lacking a general ledger or sufficient books and records, investigators must determine what is available and what information can be leveraged to reliably recreate or at least accurately supplement the records. As with Zeek Rewards, the investigators must conduct interviews with key parties involved to determine how transactions were tracked and recorded, and what information is available to help define a cash flow analysis. Given this guidance analysis of existing databases can serve as a foundation to create an e-copy of the program and how funds were flowing through it, enabling the team to essentially create a general ledger. In a Ponzi scheme scenario, this makes it possible to begin connecting the dots to determine the number of transactions that took place and the total amount of funding, who received payments or benefits, and who were simply “participants” and did not benefit financially via cash disbursement.

In the case of ZeekRewards, the company had responded to SEC requests related to monthly revenue. FTI Consulting was provided a copy of the results, which were applied as a benchmark to recreate the program operation. FTI Consulting also conducted fact-finding interviews with key ZeekRewards personnel. The results of the table distributions and SEC enquiry recreation were used to drive informed productive meetings with ZeekRewards personnel given the limited time that we had with them.

Once the team begins contacting individuals that paid and/or received money from the organisation, they can reconcile any objections to the amounts. In the ZeekRewards matter, there was a long list of victims and individuals who had been paid winnings and very little communication with those parties. Through careful, targeted analysis, the team has been able to recover the majority of losses, with minimal objections to the figures that have been established.

Defining Program-Specific Transactions

When it comes to determining victims' calculated losses in a Ponzi scheme, it is important to define the types of “investments,” purchases and deposits they made within the program. In online schemes like ZeekRewards, participants are often provided (and encouraged) the opportunity to reinvest their winnings and/or earn rewards points. In the case of ZeekRewards, a participant could use their rewards to reinvest in the program or take cash payouts. The format entices participants to bring more people in, and give them the impression that they are earning money by doing so – thus the term, “pyramid” scheme. This means that participants attach monetary value to their points in the program, which can become very complicated and convoluted when working through asset recovery.

At the time ZeekRewards was shut down by the SEC, there were 3.5 billion points distributed among participants, which the victims most often interpreted as cash. But receivers are only able to recover actual money paid in, not perceived or synthetic earnings from the program. Careful transactional analysis is required to define actual currency deposits from point accumulation and investments, to determine individual loss claims. This can become a very tricky step, and requires the team of counsel and investigators to be painstakingly thorough in their processes, as some claimants will fight about the value of the points they lost in the program. FTI Consulting needed to identify the differences between how ZeekRewards tracked cash investments and reinvestments. FTI Consulting developed a process of identifying cash coming in from outside the program using a combination of technical assessments, interviews with ZeekRewards personnel, and the recreation and validation of the SEC's investigation. FTI Consulting applied correspondence received from net winners and losers to validate findings.

Building a Model for Clawbacks and Stratification

In ZeekRewards, the receiver established an online claims process that encouraged any individual who had or felt they lost money in the scheme, to file a claim. This program had nearly ten million "users" within its database, resulting in a potentially astronomical claim universe. Approximately 175,000 claims were filed, which is much higher than any other investigated Ponzi scheme. In these cases, each claim must be evaluated and categorised as a program net winner or loser. Claimants that made money required either a 1099 for income earned and/or were subject to clawback and distribution.

This process is complex and requires dynamic modelling that allows for various baselines based on expected and realised clawbacks in parallel with victim stratification. FTI Consulting established an equitable "rising tide" model that determined the percentage of reimbursement a victim is entitled to, and the amount of payments received during scheme operation. This calculation factors in all payments in and out over the lifecycle of the scheme and enables flexibility so the receiver can compare percentages of what can be distributed against total recoveries. Other factors that the model must take into account include: processes for managing objections of claimants to established clawbacks or losses; changes that may arise to their overall distribution based upon correspondence with victims and resolutions to claimant objections.

The role of forensic accountants, attorneys and receivers must evolve alongside these technology-driven changes to how criminals are creating and operating their schemes and the global access the internet provides them with. Determining the cash inflows and outflows, fair clawbacks and equitable victim stratification are critical, but often moving targets. These sensitive issues must be addressed by experts that understand both traditional forensic accounting practices and new technology-enabled approaches that can remain apace with the shifting landscape of criminal activity. The ZeekRewards matter is a prime example of what the industry will likely see more of in the years to come, but is also a success story for how strategic workflows can be combined with technology to maximise asset recovery for hundreds of thousands of victims.



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