



BRITISH AMERICAN CONSULTANTS INC.

"CELEBRATING 25 YEARS OF PROFESSIONAL SERVICE" LICENSED, BONDED & INSURED: NEW JERSEY & NEW YORK

THE PHOENIX

INTERNATIONAL BUSINESS INTELLIGENCE

BritishAmerican.net

111 Northfield Ave., Suite 205
West Orange, NJ 07052

BritAmSec@aol.com

Tel: (973) 324-2395

Fax: (973) 324-2396



THE NEWSLETTER / MAY 20, 2009

VOLUME 1 / ISSUE 2 / 2009

What makes you think you could get away with it?

It's an obvious notion: economy plummets globally – fraud escalates exponentially!

What makes an otherwise 'good and honest' citizen decide to defraud an employer and their insurance company, by seeking to 'unjustly' claim workers' compensation?

Most people do not perceive insurance fraud as a 'crime' per-se, or would ever consider themselves as 'fraudsters'.

Fraud comes in many different forms, one of which is defined as a crime which relates to a criminal who obtains money or some other benefit or pecuniary advantage by deliberate deception.

Fraud may broadly be explained by the three components that add to the equation that allows the 'life cycle' of the crime to be committed, from inception to conclusion:

1. A motivated offender – (What induces an offender to decide to go for it?)
2. The availability of suitable targets – (How easy is it for claim for WC?)
3. The absence of a fearful punishment – (What is the punishment – is it worth the risk?)

Although insurance fraud is not generally perceived to be associated with a cold-hearted crime, it is an extremely costly crime nevertheless, and, contrary to popular belief, far from 'victimless'!

The notion that large companies, such as exist within the health care and insurance industries, will not be influenced and suffer 'all that much' in consequence, is flawed and must be viewed in a different light, more especially nowadays.

Recent consumer research conducted on the prevailing attitude towards insurance fraud found '2 out of every 5' Americans did not see anything wrong with making a fraudulent insurance claim to acquire money to which they are patently aware they are not entitled.

In fact the notion that insurance fraud is a victimless crime is the prevailing lay-man attitude. In reality we all become victims of this insidious crime, and end up sharing the cost.



BRITISH AMERICAN CONSULTANTS INC.

"CELEBRATING 25 YEARS OF PROFESSIONAL SERVICE" LICENSED, BONDED & INSURED: NEW JERSEY & NEW YORK

THE PHOENIX

INTERNATIONAL BUSINESS INTELLIGENCE

BritishAmerican.net

111 Northfield Ave., Suite 205
West Orange, NJ 07052

BritAmSec@aol.com

Tel: (973) 324-2395

Fax: (973) 324-2396



Insurance fraud costs consumers approximately \$150 billion a year in damages, leaving the average family paying a minimum of \$1000 a year in higher insurance premiums and associated costs of goods and medical services, to cover the fraud generated losses.

Workers' Compensation fraud is a one of the leading contributors to insurance fraud.

Employees commit this type of fraud when they falsely claim to injure themselves at work, or when they overstate the effects of the injury being alleged.

Such fraud, in the eyes of the perpetrator, is justified in the belief that as they have 'paid' so much towards their annual premiums, they are surely 'entitled' to recover their investment in major part, regardless of – and otherwise reliant upon - the level of exaggeration that they are prepared to apply to overstate and criminalize an otherwise legitimate set of circumstances.

This is the overwhelming attitude that prevails to turn even the otherwise most law-abiding citizen, into as cunning a criminal as an armed-robber, and, in reality, perhaps even more so, because of not only the level of premeditation necessary to incept the criminal act, but their willingness to thereafter dishonestly perpetuate and exacerbate the criminal act through the process of never-ending deceptiveness, falsehood and prevarication, to include lying to all manner of professionals and even their own family and friends, who many times – and by definition – become unwittingly complicit in the commission of that crime, or otherwise a willing co-conspirator!

Insurance fraud is here to stay – the economy predicates, nurtures and guarantees its growth.

Investigating this crime is our especial remit!

Of course my employees are trustworthy - aren't they?

As a general rule of thumb – and much in keeping with the identical exploitation (criminal motivation) associated with contrived and fraudulent insurance claims - give anyone the opportunity and motive, and you will find that 'trusted employee' can 'more than justify' theft of time and expenses from you, regardless of the level of trust implied or believed to exist!

Case Study: Yes, even in this company – a professional investigation agency reliant upon its integrity and Team Work and a legacy of excellence developed over the last quarter century – we find the proverbial 'bad-apple' every now and again! One such 'trusted employee' – we will call him 'Tim' for sake of propriety – claimed to be an expert in surveillance techniques and indeed, was inherited and retained in such a capacity from a company we purchased!



BRITISH AMERICAN CONSULTANTS INC.

"CELEBRATING 25 YEARS OF PROFESSIONAL SERVICE" LICENSED, BONDED & INSURED: NEW JERSEY & NEW YORK

THE PHOENIX

INTERNATIONAL BUSINESS INTELLIGENCE

BritishAmerican.net

111 Northfield Ave., Suite 205
West Orange, NJ 07052

BritAmSec@aol.com

Tel: (973) 324-2395

Fax: (973) 324-2396



The former owners 'advised' that they 'suspected' Tim of 'stealing hours' when out on assignment for them. Indeed, they fired him based on that suspicion, but then reinstated him as they did not have proofs-positive sufficient to substantiate and corroborate their overwhelming suspicions, such was their level of (read: lack of) overall investigative and evidential collation skills in general!

The purchase transition proceeded and, the 'old-sweat' – the said Tim – seemed to respond with a renewed vigor and re-galvanized purpose in life.

At least until such time as Tim revealed to another 'trusted employee' that he was patently aware management 'never checks the E-Z Pass Records'!

He was right – he was 'trusted' – there was no need, yes? His reports could have been introduced in sworn testimony, and who but a fool would expose themselves to that level of criminal censure for perjury and risk the reputation of their colleagues and company?!

Management, on hearing of this statement – and based on what was clearly capable of then being deemed 'evidence of system' as pertained to Tim's reputation and prior antecedents, with accompanying questionable 'work-ethic' - did precisely that – and yes, that so-called trusted employee is no more!

During the investigative process, it became clear that by virtue of the electronic E-Z Pass accounting and collation system, the evidential statements of those against whom one is diametrically opposed in potential court proceedings - and certainly when acting in the capacity of an expert witness – can be examined and otherwise challenged to good effect, when the criteria of 'time & location' is of *primaefacie* import!

If caught in one lie, what then can anyone apply - in terms of veracity and credence - to any other statement being made, (by Tim) or anyone else, so blighted by the need to cheat, lie, steal and deceive!

Technology! It may be difficult to live with at times – but it is significantly more difficult to live (with an assured level of professional integrity) without it!

Check your staff E-Z Pass Records against their acclaimed and timed activities for which you pay or reimburse them!

You may just be pleasantly surprised at a new definition for what you hitherto called 'trust'!



BRITISH AMERICAN CONSULTANTS INC.

"CELEBRATING 25 YEARS OF PROFESSIONAL SERVICE" LICENSED, BONDED & INSURED: NEW JERSEY & NEW YORK

THE PHOENIX

INTERNATIONAL BUSINESS INTELLIGENCE

BritishAmerican.net

111 Northfield Ave., Suite 205
West Orange, NJ 07052

BritAmSec@aol.com

Tel: (973) 324-2395

Fax: (973) 324-2396



Talking of 'Technology'!

It would be inappropriate of us to suggest to our readers that we are Masters of every Investigative Discipline that exists – we are most certainly not, and shame on us should we ever seek to convey such a capability!

However, and in now entering our 25th year of professional service, we can claim, with proven confidence that, whereas we do not know all the answers, we certainly know of tried-and-tested experts in every given specialist fields of investigative endeavor, the world over!

With the rapid escalation of technology – and associated crimes - and the much-vaulted 'knee-jerk' legislation being developed in the wake of an ever-evolving criminal endeavor, we found a need, on behalf of our clients, to align with one such entity who just may be on a developmental par with the developing technology as are those out there seeking to utilize it to their own maligned effect and less-than-honestly motivated purposes.

It is with the kind permission of one such expert – Our Expert – Rob Kleeger, the Managing Director of The Intelligence Group of Bedminster, New Jersey, that we present the following publication for review; which matter deals with Internet Technology and current Legislation:

CURRENT LITIGATION NEWS:

E-MAIL TO LAWYER SENT ON COMPANY COMPUTER NOT PRIVILEGED

Stengart v. Loving Care Agency, BER-L-858-08

In a case of first impression, a New Jersey judge has held that an employee's e-mail to her lawyer sent by use of a company computer isn't a protected attorney-client communication, and the company's lawyers did no wrong in retrieving the message.

Rob Kleeger - Managing Director
The Intelligence Group
1545 Route 206
Bedminster, NJ 07921
USA

Court Considers Zubulake Factors, Denies Defendant's Motion to Shift Cost of OCR Processing

**Proctor & Gamble Co. v. S.C. Johnson & Son, Inc.,
2009 WL 440543 (E.D. Tex. Feb 19, 2009)**

Following the court's decision that all documents were to be produced electronically in TIFF format with Optical Character Recognition ("OCR"), defendant asserted that the cost of processing the documents should be shifted to the plaintiff. After review of the Zubulake factors, the court concludes that cost shifting is not appropriate in this case.

phone: 9083961467
cell: 9736990167
web: www.intell-group.com
email: rkleeger@intell-group.com



BRITISH AMERICAN CONSULTANTS INC.

"CELEBRATING 25 YEARS OF PROFESSIONAL SERVICE" LICENSED, BONDED & INSURED: NEW JERSEY & NEW YORK

THE PHOENIX

INTERNATIONAL BUSINESS INTELLIGENCE

BritishAmerican.net

111 Northfield Ave., Suite 205
West Orange, NJ 07052

BritAmSec@aol.com

Tel: (973) 324-2395

Fax: (973) 324-2396



**Anthropologie, Inc. v. Forever 21, Inc., 2009 WL 690239 (S.D.N.Y. Mar. 13, 2009).
Court Orders Production, Noting Parties' Efforts Demonstrate Refusal to Comply with Rules Requirements**

In this copyright infringement litigation, the plaintiff sought production of electronic documents and permission to appoint an expert to copy and inspect the defendants' hard drives. The defendants claimed the requested documents did not exist, but nonetheless provided summaries of the information for "settlement purposes only." Finding it "virtually inconceivable" that the defendants did not retain the data requested, given the scale of the defendants' business, the court determined that the defendants' efforts reflected a "refusal to comply with even the minimal requirements of the governing discovery rules." The court ordered production of the data that was used to create the summaries and all documents that pertained to the plaintiff's request, but delayed consideration of the hard drive copying request until after production.

Magistrate Recommends Adverse Inference and Fee-Shifting Sanctions for Destruction and Secure Cleaning

Telquest International Corp. v. Dedicated Business Systems, Inc., et. al 2009 U.S. D ist. LEXIS 19546 (D.N.J. Mar. 11, 2009)

In this trade secret theft and non-compete violation, a former ex-employee incorporated a business almost immediately after leaving his position at Telquest. As part of the discovery request and incomplete production of paper documents, Telquest sought access to have DBSI computers forensically imaged and analyzed. Defendants failed to produce any computers by March 31, 2008, and, during a June 17, 2008 telephone conference before the The Honorable Esther Salas, U.S.M.J Defendants were again ordered to produce the computers. On June 19, 2008, defendant appeared pro se and delivered a computer to Telquest's digital forensic consultant. Just two days prior, defendant ran a defrag program. The forensic firm also found that on June 19th, the day computer was turned over, Secure Clean, a program that "wipes" data from the hard drive so that it they may not be recovered using conventional computer forensic tools, was in fact ran and uninstalled.





BRITISH AMERICAN CONSULTANTS INC.

"CELEBRATING 25 YEARS OF PROFESSIONAL SERVICE" LICENSED, BONDED & INSURED: NEW JERSEY & NEW YORK

THE PHOENIX

INTERNATIONAL BUSINESS INTELLIGENCE

BritishAmerican.net

111 Northfield Ave., Suite 205
West Orange, NJ 07052

BritAmSec@aol.com

Tel: (973) 324-2395

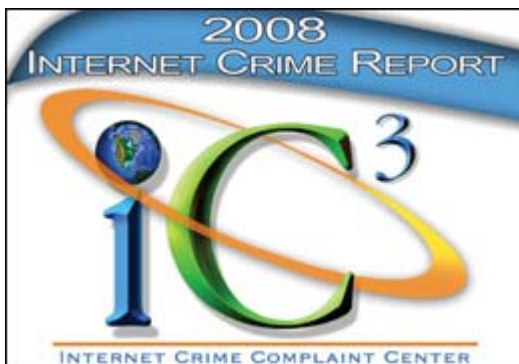
Fax: (973) 324-2396



In further developing the issue of Internet and Electronic Crime, with the emphasis on established 'scams', we present the following statistical facts for review, with the exhorted recommendation that the contacts and resources identified therein be canvassed individually for more in-depth information.

INTERNET CRIME Complaints and Losses on the Rise

03/30/09



Reports of Internet scams and their financial toll continued to grow in 2008, according to the latest data by the Internet Crime Complaint Center (IC3), which operates a website, www.ic3.gov, to collect and refer public complaints about Internet fraud.

In 2008, more than \$264 million was lost in 275,284 complaints—an average of \$931 for every complaint—according to the 2008 Internet Crime Report, released March 30. Almost one-third of the complaints were for non-delivery of merchandise purchased online; auction fraud accounted for one in four complaints.

In one case cited in the 2008 figures, a Virginia woman—Rachel Trent, who was the subject of multiple complaints in three states—advertised rare baseball and football cards on the eBay auction site. Once a buyer paid, the woman sent a worthless card or sometimes nothing at all. She was arrested by a cyber task force and is serving four years in prison.



The Internet Crime Complaint Center is a partnership between the FBI and the nonprofit National White Collar Crime Center. IC3 collects the data, analyzes it, and then refers complaints to law enforcement agencies to follow up. The report, issued annually since 2003, offers a snapshot of the most frequent Internet crimes, where they are occurring, and who is being victimized.

In the U.S. last year, California, New York, Florida, Texas, and the District of Columbia were home to half the perpetrators identified in complaints. Worldwide, perpetrators were most commonly from the U.S. (66.1%), followed by the United Kingdom (10.5%), Nigeria (7.5%), and Canada (3.1%).



FBI Supervisory Special Agent Charles Pavelites describes the role of the Internet Crime Complaint Center. [Play Video](#)



BRITISH AMERICAN CONSULTANTS INC.

"CELEBRATING 25 YEARS OF PROFESSIONAL SERVICE" LICENSED, BONDED & INSURED: NEW JERSEY & NEW YORK

THE PHOENIX

INTERNATIONAL BUSINESS INTELLIGENCE

BritishAmerican.net

111 Northfield Ave., Suite 205
West Orange, NJ 07052

BritAmSec@aol.com

Tel: (973) 324-2395

Fax: (973) 324-2396



Here's a look at the scams prompting the most complaints (by percentage), along with the average amount of money lost per complaint:

- Non-delivery of merchandise/payment: \$800 (32.9%)
- Auction fraud: \$610 (25.5%)
- Credit/debit card fraud: \$223 (9%)
- Confidence fraud: \$2,000 (7.9%)
- Computer fraud: \$1,000 (6.2%)
- Check fraud: \$3,000 (5.4%)
- Nigerian letter fraud: \$1,650 (2.8%)

The data is posted in full at the [National White Collar Crime Center website](#) (pdf).

"This report illustrates that sophisticated computer fraud schemes continue to flourish as financial data migrates to the Internet," FBI Cyber Division Assistant Director Shawn Henry said in a statement.

Year	Complaints	Loss
2008	275,284	\$265 million
2007	206,884	\$239 million
2006	207,492	\$198 million
2005	231,493	\$183 million
2004	207,449	\$68 million

The 2008 figures represent a 33% increase in complaints and a \$25 million increase in losses over 2007. E-mail and WebPages were the two primary mechanisms scammers used to commit their crimes, underscoring the need to be vigilant and cautious online, particularly in transactions. The Internet Crime Report offers prevention tips to avoid online traps. You can also visit our [Be Crime Smart page](#) to learn about frauds, scams, and how to file tips and complaints.

Footnote: A learned Judge of the Workers' Compensation court in New Jersey once chastised me for rebuking the legal representative of a claimant during a trial, by stating: 'You must remember Mr. Roberts, this is a 'Workers' Compensation' court, not an 'Employer's Compensation' Court!!'

And, therein lies the rub – the system is designed to accommodate the fraudster and all too often, protect them whilst they commit that criminal act – and otherwise provides little beyond the maxims of the burden of proofs reverting to being the onus of the defendant! Yes – in such a claim, the employer is truly the perceived 'criminal' until such time as they can prove to the contrary!! A terrible shame – but a fact of life!

Yours very truly,

David Roberts.

David P. Roberts, F.I.P.I.
British American Consultants, Inc.