



CONTACT NUMBERS FOR THE 2005/2006 BOARD

Colin Parcher	604 953 5232
Dean Davison	604 685 6864
Russell Law	604 697 5277
Carmen Wiechers	604 270 9200
Linda Murray	604 220 6210
David Connop	604 880 5462
Pat McDowell	604 657 8620
Marty Nicholls	604 899 6622
Adrienne Fairburn	604 669 2533
Jim Blatchford	604 633 1755
Jean Michel	604 682 1562

VANCOUVER CHAPTER COMMITTEE LIST

If you are interested in helping out, please contact Jean Michel or any member of the Board.

ETHICS

Chair: David Connop

MEMBERSHIP/OUTREACH LIAISON

Chair: Marty Nicholls
Member: Carmen Wiechers
Member: Dean Davison

NEWSLETTER

Chair: Pat McDowell
Member: Adrienne Fairburn

PROFESSIONAL DEVELOPMENT AND TRAINING

Chair: Colin Parcher
Member: Jim Blatchford
Member: Kim Marsh

WEBSITE

Chair: Pat McDowell
Member: Agnes Lee

MEMBERSHIP

Membership in the Vancouver Chapter of the Association of Certified Fraud Examiners is broken down into three main categories: CFE, Non-CFE and Student.

Current membership fees are \$65 plus GST for a total of \$68.90, and \$26.50 for Students.

Please contact Jean Michel at 604.682.1562 or cfevancouver@yahoo.ca.

Enter 'Membership' in the subject line.

President's Report

I would like to update you on the two day Professional Interviewing Session that was sponsored by the ACFE World Headquarters and our September luncheon.

As you all know, the board has been working very hard at bringing the 2008 Canadian Fraud Conference to Vancouver. This conference has been held in Toronto for the past 12 years and the 13th is already set for May 2007. As I have lived and policed in Southern Ontario, I can confirm that it is a great place to live and visit but after 13 years we are hopeful that the ACFE will agree to move the conference west for a year.

As previously reported we needed to make the Professional Interviewing course a success to demonstrate to the world body that we could support the national conference.

We faced a number of challenges in our efforts to achieve the required success. While the training is on the ACFE web site, the heavy marketing of the session does not really begin until after the National Conference which in this case was July in Las Vegas. Many people had already completed the required training for their ongoing professional development, as there have been a number of training sessions in the Vancouver area in 2006. As well, many people and/or their signing authorities were on vacation and approvals to attend were not available or delayed.

To secure the session, the ACFE required 45 attendees, which of course does not mean a success but does at least hit the break-even point. We, wanted more and you stepped up to the plate as 70 people attended the session.

By all reports, the presenter was excellent and there was some very valuable information on interviewing provided. The Vancouver Chapter hosted a reception at the end of the first day that was well received and got its own rave reviews.

Three board members Dean Davison, Adrienne Fairburn, and David Connop volunteered to run the registration table but were closely supervised by our own Jean Michel. I would like to express my thanks to all of them for a job well done. Of special mention is Mr. Connop who personally greeted each attendee on day one. I have had numerous phone calls and emails about the conference in general but each mentions this extra touch of class - thank you Mr. Connop.

While my reports from the ACFE World Headquarters all indicate that this was a success, we are still waiting for their commitment to hold the 2008 Canadian Conference in Vancouver.

Our other success for September was the luncheon held September 27 at the Hornby Banquet Room. The lunch was excellent with 62 people attending. The speaker, Brian Child, was not only informative but also entertaining. (You will read more about Brian's "Fraud Fighters Utility Belt" starting on page 3 of this newsletter.)

If you attended the Professional Interviewing Session or the September luncheon, I would like to thank you for your support and, if you were unable

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Upcoming Events

MONTHLY LUNCHEONS:

We are having another fantastic season of educational and interesting luncheons on the 4th Wednesday of every month **(please note that in November for one time only, we have moved to Tuesday)** at the Hornby Banquet Centre.

Come for the networking opportunities as well as the CPE and the food.

Contact Jean Michel at cfevancouver@yahoo.ca to register and enter 'luncheon' in the subject line.

NEXT LUNCHEON:

When: **October 25th, 2006**

Time: noon

Where: Hornby Banquet Centre,
595 Hornby St, Vancouver

Cost: \$20 - members/ students,
\$30 - non-members

Speaker: Kim Marsh CFE,
IPSA International Inc., Past
President of CFE Vancouver

Kim will be speaking about a recent undercover storefront operation he ran for Microsoft. Mr. Marsh was profiled in an earlier newsletter..

Call Jean Michel today to book your spot: 604.682.1562 or email cfevancouver@yahoo.ca

Put 'luncheon' in the subject line.

MARK YOUR CALENDAR

November ½ day and AGM

On Tuesday, November 21st 2006 we are planning a half day afternoon training session starting with a light lunch and ending with dinner.

Our featured speaker on *Statement Analysis* will be Mr. Jim Ratley, President of the ACFE World Body

Mr. Ratley will also be our keynote speaker at the dinner to follow. Watch for the November newsletter for more details.

Remember to block off **Tuesday** the 21st of November!

Member Profile

Dan Little, BA, CFE, CA

Dan Little is a partner at Hayes Stewart Little & Co., Chartered Accountants, the largest independent accounting firm on Vancouver Island with offices in Victoria, Duncan, and Nanaimo. Dan was born in Saskatoon, but moved to Victoria at age 6. He grew up in Victoria attending school, playing hockey and pursuing his favourite hobby--fishing. In 1986 he received a Bachelor of Arts degree in Economics from the University of Victoria, followed by his Chartered Accountant designation in 1991 and his Certified Fraud Examiner designation in 1996.

After graduating from university Dan began articling with Hayes DeBeck & Stewart in Duncan. Not wanting to give up the Island lifestyle, Dan achieved his Chartered Accountant designation and accepted an offer of partnership with the firm.

Dan practices primarily out of the Duncan office. His main area of focus is assurance and advisory services and he currently controls or oversees most of the audits performed by the firm. The firm also provides forensic and litigation support services and Dan has directed a number of engagements in both of these areas.

In his professional involvement, Dan has been a member of Council of the Institute of Chartered Accountants of BC as well as a member of their Professional Conduct Enquiry Committee. Currently he is a member of the Institute's Discipline Tribunal.

Community involvement has also been an important part of Dan's life in the Cowichan Valley. Dan has been involved with many community organizations and businesses and is presently a Director of Island Savings Credit Union. When not involved in professional and community tasks, Dan very much enjoys spending time with his family and particularly helping coach his two daughters (Nicole 15 and Kate 13) in ice hockey. ■



On the Move

Dean P. Davison LLP, CFE

Dean P. Davison, lawyer and Vice President of our local CFE Chapter, has taken the leap from associate in a law firm to a sole practitioner.

His new office is located on the 17th floor at 808 Nelson Street across from the Vancouver Supreme Court.

Dean's practice is general commercial litigation with a focus on asset recovery for victims of fraud. As a new sole practitioner, Dean is happy to assist with any legal matters large or small. He can be reached at ddavison@dpdlaw.ca or 604-685-6864. ■

Please help us keep your fraud community up to date with the comings and goings, the "to-ing" and "fro-ing" of our members.

If you or a colleague have recently changed jobs, taken on new responsibilities and/or had a personal milestone, please send your On the Move notices to cfevancouver@yahoo.ca and put 'On the Move' in the subject line. ■



Find a Fraud Examiner

The Vancouver Chapter website has a section called **'Find a Fraud Examiner'** where members in private practice or those willing to take outside jobs can advertise.

See www.cfevancouver.com

If you are a CFE and a current member of the Vancouver Chapter of the Certified Fraud Examiners and you would like your name and contact information on our website, please send the following information to us at cfevancouver@yahoo.ca and put **'Find a Fraud Examiner'** in the subject line.

Please provide the following info:

Name:

Professional Designation(s):

Address:

City:

Telephone #:

E-mail:

Website:

Specialty or Area of Practice: *for instance, Forensic Accounting, Risk Consulting, Investigation, etc.*

Note: *please bear with us while we have our website redesigned. We expect it should be up and running by late October, 2006.*

MARK YOUR CALENDAR

On December 20th, 2006 the Vancouver Chapter of the CFE is planning a purely social Christmas luncheon.

What a great opportunity to network with other anti-fraud professionals, and nice people, to boot.

Our membership is a diverse group, including former law enforcement, security, private investigator, forensic auditors, internal auditors, accountants and lawyers. You are sure to find it stimulating and useful to your professional life.

President's Report (continued)

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to make it, I encourage you to try to fit the October luncheon and/or the November ½ day training seminar into your schedule.

While both of these are reported within this newsletter I would like to briefly mention them.

The October luncheon features our Past President, Kim Marsh, presenting a case study on an undercover storefront operation that he ran on behalf of Microsoft. This should be very interesting.

Our November ½ day training session is a must for any one who attended the Professional Interviewing session, as it will be Statement Analysis. The presenter on this will be Mr. Jim Ratley who is the new President of the ACFE World Body. Mr. Ratley will be staying on for our AGM/dinner and be our keynote speaker.

I encourage all of you to make that extra effort to attend both the Statement Analysis Session and the AGM. Let's show the true strength of the Vancouver Chapter.

The training half-day on Tuesday November 21st, 2006 will be a wrap for our year and our December luncheon on the 20th will be a Christmas social.

I would again like to thank you all for supporting the Vancouver Chapter of the ACFE. Additionally I would like to thank the other Canadian Chapters and the various organizations for their support in bringing 2008 to Vancouver.

Remember there are benefits to joining the national body as well as the local chapter. For further details speak to any of the board members.

Bring a friend to lunch - they will have fun and gain valuable new contacts. ■

Colin G Parcher CFE
President, Vancouver Chapter

Last Month's Speaker – Brian Child

The Fraud Fighter's Utility Belt

2003 KPMG Fraud Survey

❖ 75% of organizations experienced fraud in 2002 (up from 62% in 1998)

Of those companies experiencing fraud:

- ◆ 60% identified employee fraud
- ◆ 32% consumer fraud
- ◆ 25% vendor related third party fraud
- ◆ 18% computer crime
- ◆ 15% misconduct
- ◆ 12% medical/insurance fraud
- ◆ 7% financial statement fraud

While financial statement fraud was at the bottom of the list in terms of occurrence, it was at the top in terms of losses with an average cost of more than \$250 million. This can be partly explained as one reporting company lost \$4 billion to financial statement fraud in the preceding 12 months. The average cost of employee fraud was \$464 thousand per company. Worldwide, credit card fraud grew from US\$110 million in 1980 to US\$1.63 billion in 1995.

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PD Opportunities for Members

VANCOUVER PDE OPPORTUNITY

AFTERNOON WORKSHOP ON STATEMENT ANALYSIS

November 21, 2006

Conducted by Jim Ratley, President ACFE World Body, at our Annual General Meeting

Contact Vancouver CFE for more details:

www.cfevancouver.com

(CPE hours to be determined)

U.S. & International Locations:

NEW! FINANCIAL INSTITUTION FRAUD

Newark November 2006

Las Vegas December 2006

AUDITING FOR INTERNAL FRAUD

Honolulu November 2006

NEW! INTERVIEWING TECHNIQS FOR AUDITORS: ELICITING INFORMATION

Las Vegas December 2006

CONDUCTING INTERNAL INVESTIGATIONS

Hong Kong November 2006

INVESTIGATING BY COMPUTER

Phoenix January 2007

NEW! INTRODUCTION TO DIGITAL FORENSICS

Las Vegas February 2007

For more information see the ACFE Website at: www.acfe.com

JOINT IIA/ACFE TRAINING SESSION, 2007:

We are beginning the planning stages for the second annual joint conference. If you attended the last one in April 2006 you know how educational and interesting it will be.

If you have any suggestions regarding speakers, topics or timing, please communicate them to one of our board members or to cfevancouver@yahoo.ca

Your Chapter Needs YOU!

CALL FOR BOARD NOMINATIONS & COMMITTEE VOLUNTEERS

The Nominating Committee is finalizing a slate of proposed directors to be presented at the Chapter's AGM on Nov 21/06. We are also looking for Committee volunteers.

Director qualifications and duties:

- ✓ CFE member in good standing with ACFE and Vancouver Chapter
- ✓ Elected annually at the Chapter AGM
- ✓ Nine director positions
- ✓ Meetings are held monthly just prior to the luncheons from Sept through June



Committee Volunteers

We are also looking for volunteers (CFEs and non-CFE associate members) to help out on Committees (Professional Development, Finance, Membership/Outreach, Newsletter, Website and Ethics).

The Chapter is only as successful as the participation of its members and we are always in need of new ideas and new energy so that we can better serve the members. We are fortunate to have a very talented and diverse membership from which to draw ideas and expertise. The time commitment is modest and the experience is a rewarding one.

Please contact me (before Friday, Oct 27/06) by email at lindajmurray@shaw.ca or by phone at (604) 220-6210 if you would be willing to let your name stand for election as a director or if you wish to volunteer for one of the committees. Thanks. ■

Linda J. Murray, CFE (Past President)

Chair, Nominating Committee 2006/2007

Last Month's Speaker – Utility Belt

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Framing the proceedings: the nature of the case will determine whether you use Common Law or Statutory Causes of Action.

1. Fraudulent Preferences Act (FPA)

- May reverse transfers of property where the transfer was made:
 - With the intent...
 - ◆ ...to defraud, delay, hinder or prejudice...
 - ◆ ...the debtor's other creditors...
 - ◆ ...and to prefer the recipient creditor over some or all of the other creditors.
- If the action is brought within 60 days of the transfer, may provide for a "deeming" of the necessary intent.

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Service to the Community

The President of our chapter, Colin Parcher, Manager, Investigative Services, Financial Institutions Commission has been asked to be a Guest Speaker at Kwantlen University College.

He will be speaking to Introductory Fraud Examination students, with a tentative topic of Mortgage Fraud and Links to Identity Theft and Marijuana Grow Operations.

We would like to commend Colin for his willingness to spend his time and efforts for the benefit of the chapter and the community as a whole.

Wayne McIlroy Memorial Scholarship

Kwantlen University College Foundation

The CFE Vancouver Chapter is committed to fund an annual scholarship of \$750 in memory of Wayne McIlroy, longtime CFE Chapter and board member.

The scholarship is available to Criminology majors in the four year BA program who have a grade point average of 3 or better. Students must carry a full case load and be able to demonstrate a financial need.

For more information go to the Kwantlen University College Website at:

<http://www.kwantlen.bc.ca/>

Recent Fraud Findings

The unfolding Hewlett Packard internal spying case provides a timely cautionary tale to all investigators.

If we don't respect the laws while performing investigations, we could be the ones facing criminal charges.

We also see that the worst thing that could happen if we stoop to obtaining information illegally is **not** that the courts will not accept our evidence, although of course that is always a prime consideration.

Let's not see the "good guys" led away in handcuffs...**be careful out there.**

Last Month's Speaker

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- Intended to allow creditors to recover assets wrongly transferred and put all creditors on an even footing
- There are conflicting interpretations
- Not an outright bar to a creditor receiving funds in preference to other creditors
- Only seeks to rescind those transactions where there was the intent to prefer one creditor over the others

2. Fraudulent Conveyances Act (FCA)

- Intended to recover property where the debtor has:
 - ...disposed of the property...
 - ...to delay, hinder or defraud creditors...
 - ...of their just and lawful remedies...

Differences and similarities of the FPA and the FCA:

- ❖ FCA does not require that the transfer be to the creditor or with the intent to prefer the recipient
- ❖ FPA is intended to be used in the circumstances where a creditor is being preferred over others
- ❖ Both FCA and FPA intended to assist creditors in equal treatment in relation to the debtor's assets

Business Corporations Act

1. Inspectors and investigations

- ❖ Shareholders may apply to Court to appoint an Inspector (subsection 248(1))
- ❖ Need at least 1/5 of the shareholders of the company
- ❖ Applicant shareholders need to show:
 - Affairs of the company have been conducted in an oppressive manner;
 - Business is being carried on with the intent to defraud any person;
 - Company was formed for an unlawful or fraudulent purpose; or
 - Persons concerned with the formation, business or affairs of the company have acted fraudulently or dishonestly;
- ❖ Inspector so appointed has broad powers of investigation
- ❖ May investigate the company and its Affiliates – the affairs and management
- ❖ Court supervised – the Inspector must provide its report to the Court

The Canadian Federal Statutes

2. Bankruptcy and Insolvency Act (BIA)

- Fraud activity can be an act of bankruptcy Fraudulent conveyance of property – paragraph 42(1)(b)
- Fraudulent preference – paragraph 42(1)(c)
- Assigns, removes or hides property with the intent to defraud creditors – paragraph 42(1)(g)

Settlements - section 91

- ❖ Analogous to the Provincial Fraudulent Conveyance Act
 - Proving intent is not necessary – may be deemed
 - Settlements up to one year prior to the bankruptcy are void as against the trustee

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Last Month's Speaker

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- If the bankrupt was insolvent at the time of the transfer, may be able to overturn transactions as far back as five years

Preferences – sections 95 and 96

- ❖ Analogous to the Provincial Fraudulent Preference Act
 - May be deemed preferential where the transfer was made within three months (arm's length transactions) and up to twelve months (related party transactions) of the bankruptcy
 - Intention to prefer within these periods will be presumed, but may be rebutted

Investigations by the Trustee – sections 161 to 164

- ❖ Broad powers of examination and inquiry granted to the Trustee and creditors
- ❖ Investigative powers may be extremely valuable in the case of a many-tentacled fraud.

Strategy

- ❖ The BIA provides that some debts are not released upon a bankrupt's discharge
 - These include fraud...and defalcation while acting in a fiduciary capacity
 - May be advantageous to get the non-fraud claims of creditors discharged to enable a faster recovery from the bankrupt's post-discharge earnings and assets

New tools in the belt – the Down decisions:

- ❖ Extraordinary ex parte use of the BIA in the case of an alleged fraud
- ❖ Interim receiver appointed
- ❖ Appears to have been a proper expansion of the BIA
- ❖ Ultimately failed (at least in part) as a result of material

non-disclosure on the initial application(s)

The Down decisions

- ❖ Decisions worth reading as they illuminate a new tool to be used in the case of fraud while also warning of the pitfalls of ex parte applications

3. Canada Business Corporations Act

Investigations

- ❖ Similar to the investigations section of the BC BCA
- ❖ Open to a shareholder or secured creditor to apply ex parte for an investigation – subsection 229(2)
- ❖ Specific reference to investigating for fraud in the carrying out of the business of the corporation
- ❖ Similar powers of the inspector to those contained in the BC BCA
- ❖ May also provide that the corporation or an affiliate pay the expenses of the investigation
- ❖ No threshold number of shareholders or creditors needed
- ❖ Indeed – a secured creditor can apply, unlike the BC BCA

Recent case:

- ❖ Successfully used by Catalyst Fund against Hollinger Inc. and Conrad Black in Ontario
- ❖ Ernst & Young appointed as inspector after initial objections to Kroll Lindquist Avey Inc.
- ❖ Case is ongoing

Getting to the Bad Guys

Norwich Pharmacal Order

- ❖ Dates from 1974
- ❖ Third parties named in the order can be compelled to provide “full information” about a party's assets
- ❖ Avoids the need to name additional parties to the action
- ❖ Originally used in relation to a bank, now more likely of more use in relation to non-banks

Evidence Act – 64(6)

- ❖ Enables a party to apply to a Court for an Order to have bank records disclosed
- ❖ Can assist in identifying parties and their assets
- ❖ Can compel the Bank to deliver notice to a phantom defendant
- ❖ A very powerful tool

To be continued ►

Due to the length of this write-up, we will need to finish the article in our next issue. Don't miss the final episode from Brian Child...

...FREEZE!!! Preserving the Evidence and Assets

The Vancouver Chapter of the ACFE is working hard to get the 2008 Canadian ACFE conference, by showing the World Body the kind of commitment and dedication that exemplifies our members.

Come out and show your support!!!

