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To catch fraudsters, think like they do

In the hunt for white-collar criminals, Freeborn & Peters attorney stresses use of psychoanalysis

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Fraud is nothing new, but the way people think about it is changing.

The first recorded fraud attempt in Western history dates back to around 300 B.C., when a Greek merchant hatched a plan to sink his ferry and its non-existent — but nonetheless well-insured — shipment of corn.

That would-be swindler, Hegestratos, didn't get a shot at moral redemption, though. He jumped overboard after his crew caught wind that their demise was to be his profit.

Had he lived, though, he likely wouldn't have changed his stripes. That's at least according to a line of thinking that comes from a survey of professional fraud investigators with a catchy title — "Once a Fraud, Always a Fraud?" — conducted by Neal H. Levin, a Freeborn & Peters LLP partner.

The short answer to that query? Yes.

When asked if a fraudster — today's term for a Hegestratos — is always a fraudster, 56 percent responded "always." Only 33 percent said they believed a fraudster could reform.

This isn't a purely academic exercise to Levin. He's in the business of nabbing fraudsters — and to catch one, his logic goes, you must think like one.

The fraud and internal investigations team he leads at Freeborn relies on the idea that fraudsters have a different psychological makeup than the average, law-abiding corporate suit-wearer.

His group's investigations rely on behavioral science to build what he calls "the story" of a fraud — a mixture of what drives

the perpetrator and what opportunities there were to prey on — that guides the team's inquiries.

He said the approach cuts costs, saves investigation time and, due to the perverse thinking of his targets, has led some of the ones he catches to later ask him for representation.

On Sunday, Levin will give a presentation at the Association of Certified Fraud Examiners annual conference in San Antonio. It is titled, "How 'Knowing Your Enemy' is the Best Way to Prevent, Investigate and Recover."

"That will help you ask different sorts of questions about why they were doing what they were doing, how they were doing what they were doing," Levin said. "Or what else they might have done."

So what does a fraudster look like?

The global accounting firm KPMG released a 2013 study based on 596 frauds from 2011 to 2013 called "Global Profiles of the Fraudster." It's an attempt to help corporations spot the bad apples in their businesses.

The typical fraudster, the survey found, is age 36 to 45, acts against his or her own company, is mostly employed in a senior management position, has been at the company for six years or more and typically does not act alone.

That casts a rather wide net that some think psychology can help tighten.

To narrow your search for corporate pocket-pickers, try deciphering how they view themselves in regards to others. "Superiority," it turns out, is "the only emotion that appears to be significant" to fraudsters — it was evident in 36 percent of the 596 cases KPMG studied.

"What it boils down to

primarily is power, greed and dominance," said David S. Marshall, president of the ACFE's Chicago area chapter.

A survey this year by ACFE found that 41 percent of frauds were perpetrated by employees who worked at their company between one and five years.

Only 7 percent of frauds were done by employees who had worked at a company for less than a year. But those employees were three times more likely to have a prior conviction than fraudsters who waited a year or more to steal.

"That says to me something that people told me when I was a child: A tiger does not change his stripes," Marshall said. "Rehabilitating a white-collar criminal is very difficult. Some people are habitual perpetrators."

While psychoanalysis is somewhat common in the fraud-catching business, Levin seems to take it a step further than most, said Marshall, who has seen one of the Freeborn attorney's presentations.

"It's a void," Marshall said, adding that fraud investigators do not typically include psychoanalysis in their work. "And to Neal's point, it's an area where I think we definitely need to learn more."

Levin said he has professed "for years" that fraudsters — whom he defines as people who have committed fraud and are diagnosed with an antisocial personality disorder — are in it for the power that comes with separating people from their money. The money itself is not the motivator.

"They really do look at everyone else as being less smart than them," Levin said. "But when someone like me or my team succeeds in getting their assets, uncovering their fraud, it's almost as though we become accepted. Like there's a mutual respect."

He has twice been employed by former targets whose frauds



Neal H. Levin

he investigated and helped clients recover money from. He points out he was not hired to help the former targets hide assets or commit fraud.

Often, the perpetrators of fraud have also been victims of it, he said. In the two instances in which he represents former targets, he is helping them recover funds.

"I do tread very cautiously," he said.

After all, antisocial personality disorder doesn't go away.

"You might be able to harness it. ... but you don't get rid of it," Levin said. "If you've got that gene in your brain, it's always there. So the propensity is, if put in the right environment once again, you would do the same thing you've done before."

Hegestratos would find today's cons a lot more sophisticated than the basic insurance fraud he failed to pull off.

Levin is now focused on frauds involving Bitcoin, the digital currency, and equity crowdfunding, which will allow everyday investors to buy small ownership stakes in small companies once the Securities and Exchange Commission finalizes rules for the new investment practice.

"That's just a petri dish for fraud," Levin said. "And so I'm loving that."