



**Williams Overman Pierce, LLP**  
Certified Public Accountants and Consultants

## Using Forensic Accountants in Court

*By Deborah Jackson, ADA, 27A; Michael H. Womble, Willams Overman Pierce, LLP*

**Embezzlement cases are becoming more prevalent** in today's society because of advancements in technology and the absence of oversight over employees with access to financial assets. Despite all of the electronic conveniences available to business owners today, many businesses become unsuspecting prey to employees who lose their fear of being discovered due to the lack of proper oversight and supervision. One of the biggest issues prosecutors face in embezzlement cases is compiling all of the evidence and organizing it so a jury can understand how the evidence trail leads back to the defendant. This is where a forensic accountant can assist in making a case more manageable and assist in presentation to a jury. Here is what one prosecutor and forensic accountant have to say about a case.



**Jackson:** While working my first embezzlement case, I discovered that the volume of generated documents was overwhelming. Although tracing transactions back to the defendant was fairly easy, my thoughts were fixated on how to present 1,764 documents to the jury in some sort of rational order. In my search for an expert to help with this task, I was referred to Michael Womble and his firm Williams Overman Pierce, LLP. They are certified public accountants. Mike is an expert in tax, forensic and valuation services and small business accounting with significant courtroom experience. His experience, and others like him, is invaluable for a high dollar embezzlement case.

On my first and only visit to Mike's firm in Raleigh, I carried thousands of documents to his office. After discussing the case, he convinced me that case planning and organization could be done electronically by the secure uploading or secure email of documents. All of the case documents were subsequently sent to him by these electronic means. The victim provided an electronic copy of their bookkeeping program QuickBooks. All of the company's bank records and credit card statements along with the defendant's bank records and credit card statements were provided to Mike via similar means.

He was able to generate several binders that systematically traced the defendant's transactions from her first fraudulent transaction in 2011 until the last one in 2013. The defendant in this case wrote 186 company checks to herself, wrote checks and/or initiated electronic

transfers on 191 different occasions to pay her personal bills from the company, and increased the amount of her paycheck 34 times over the course of three years. The total amount of money missing from the company totaled \$269,291.45.

N.C.G.S. rule 1006 permits the entering of voluminous writings into evidence. I was able to establish that the "documents are so voluminous that it would be impracticable to produce and examine them in court." *State v. Ingram*, 278 S.E.2d 248, 252 (N.C. 1981). Thus, all of the bank records, credit card statements, etc., were admitted in their original forms. Admitting Mike's six notebook binders into evidence was also permitted to accompany the matching documents from which his report was established. Mike testified from a scaled down version, thanks to N.C.G.S. rule 611(a), of the documents in the form of separate spread sheets from each institution that reported money transactions. Mike selected an entry from each spreadsheet to present to the jury tracing the defendant's money transactions from beginning to end. "Pedagogical charts or summaries may include witnesses' conclusions or opinions, or they may reveal inferences drawn in a way that would assist the jury" *United States v. Janati*, 374 F.3d 263, 273 (4th Cir. 2004). Using these rules to our advantage was effective in that the jury could monitor the defendant's spending from withdrawal to purchase. Subsequently, we won the case. Mike was also a big hit with the jurors.

**Womble:** For the forensic accountant, the key to a case like



this one is being able to visualize, at the very beginning, what a jury needs to see in order to understand what the defendant has done. Once you have visualized the end result, the rest is all about process and consistency: developing a product, in this instance a Rule 1006 Summary Report, from where the end users (the jury) can be confident that the conclusions they reach from that information are accurate.

This process and consistency is found in document handling, the analysis, the computations and the arrangement of the information for presentation. During the course of my work, I was able to identify additional transactions that had not previously been uncovered thereby increasing the restitution available to the victim by more than \$40,000. On direct examination, I was able to explain to the jury, via a large display screen in the courtroom, an example of each method used by the defendant to take money, all the documents constituting the paper (or electronic) trail of that individual transaction, and how that individual transaction became a part of the total amount taken by the defendant. I found the jury to be quite attentive to this presentation due to the format of the materials; we didn't bore the jury with every single number but established the pattern of our work and then presented the summary report at the conclusion.

On cross-examination, the defense proffered an alternative explanation for why the money was taken, citing possible collusion with the victims in order to hide money from the taxing authorities. From my experience in working with many small businesses over the course of my career and my experience that I have gained in working with similar cases, I was able to explain to the jury why that alternative explanation was not a plausible one. The defense further proffered that it was ridiculous to think that this amount of money could have been taken without the knowledge of the victim, furthering the alternative explanation offered previously. Again, due to my experience in dealing with similar cases in the past, I was able to explain to the jury that, unfortunately, this situation is quite common today and offered an example illustrating that point.

In achieving success in cases like this one, the relationship between the prosecutor and the forensic accountant can't be overemphasized. Great communication is likely the most important ingredient to a successful experience in this environment. No matter the perceived level of experience of the forensic

accountant, it is important that the prosecutor educate the forensic accountant on the applicable law and what information must be introduced into evidence to establish guilt under the statute(s). For the less experienced, a session on courtroom procedure and etiquette would be appropriate. Planning and preparation of direct examination questions, anticipating likely cross examination questions, evaluation of the strengths and weaknesses of the case should be discussed prior to trial. In this particular case, Ms. Jackson was generous with her time and expertise as we prepared for trial. As a result, the case ended well for the state.

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**About Michael H. Womble:** *Michael Womble, managing partner, is a 1982 graduate of the University of North Carolina at Pembroke with a Bachelor of Science degree in business administration with a concentration in accounting. He has over 30 years of experience in private and public accounting including working in the distribution and construction industries as Controller/Chief Financial Officer and over 25 years in public accounting.*

*Today, he concentrates primarily on forensic and valuation services, including forensic accounting, business valuation and litigation consulting and support services. He has testified frequently in state courts and is a frequent speaker to attorneys and accountants on accounting, tax, forensic and valuation topics.*

*In addition to his license as a Certified Public Accountant, he holds the professional designations of Accredited in Business Valuation (ABV) and Certified in Financial Forensics (CFF) by the American Institute of Certified Public Accountants, Certified Valuation Analyst (CVA) by the National Association of Certified Valuation Analysts, and Accredited Senior Appraiser (ASA) by the American Society of Appraisers.*

**About Williams Overman Pierce:** *Founded on the principles of dedication, integrity and professionalism, Williams Overman Pierce, LLP, located in Greensboro and Raleigh, NC, is a full service public accounting firm known for providing our clients with personal care and friendly, responsive service. For over 40 years, we have helped individuals, businesses and nonprofit organizations identify and meet their goals for success. We ask questions and put our experience to work for our clients.*