




INTRODUCTION 


- **Linda Saunders—Federal & State auditor and investigator 15 years**
 - Forensic accountant—17 years
 - Work with attorneys & clients
 - Washington, Oregon, Idaho, Alaska, California, Iowa, Wyoming




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FORENSIC ACCOUNTANTS WORK WITH PRIVATE INVESTIGATORS & VISA VERSA 
Your input –


- Criminal vs. civil work?
- Investigator vs. accountants?
- Ever testified?
- Got financial records that don't make sense?
- Partner with other investigators & forensic accountants



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THIS CRIMINAL TRIAL 

- Investigated by ID Dept. of Insurance
- Prosecuted by ID Attorney General
 - Defended by celebrity attorney firm of Spence, Moriarity & Schuster from Wyoming & Idaho Attorney Chuck Peterson
- Old case with classic lessons




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THIS CRIMINAL TRIAL—
RICK HOYLE CHARGED WITH:

INTRO

- Eight counts including Racketeering (RICO) charges
- 134 Predicate Acts of fraud, grand theft, and forgery
 - With-
 - Over zealous Prosecutor & insurance investigator
 - Bookkeeper w/ax to grind




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MY WORK SCHEDULE—

INTRO

- 2 day Boise visit—July 1998
- 1 week sequestered with notebooks in MT '99
- 4 weeks immersed in documents in ID Spring '99
- 4 weeks in trial in Boise April-June '99
- Nearly 1 week in closing arguments in court

❖ Total investigative & court time on this case was over 500 hours




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MY ONE MONTH INVOLVEMENT AT TRIAL:

INTRO

- Sat through some direct examination and all cross examination of bookkeeper
- Listened to other fact witnesses for both sides
- Worked swing shift in my hotel analyzing documents for next day in court for attorney
- Heard all of Prosecution's Expert's testimony

➤ Nearly 4 days on the stand as rebuttal expert witness





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WHAT'S IN IT FOR YOU TODAY?

OVERVIEW

- Learn about the criminal trial
- Types of witnesses and pitfalls in this case study
 - ✓ The Prosecutor
 - ✓ Prosecution's CPA Expert
 - ✓ State Insurance Investigator
 - ✓ Bookkeeper



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WHAT'S IN IT FOR YOU TODAY?

OVERVIEW

Learn about:

- ✓ Fact witnesses
- ✓ Expert witnesses

And the importance of screening & verifying witnesses.



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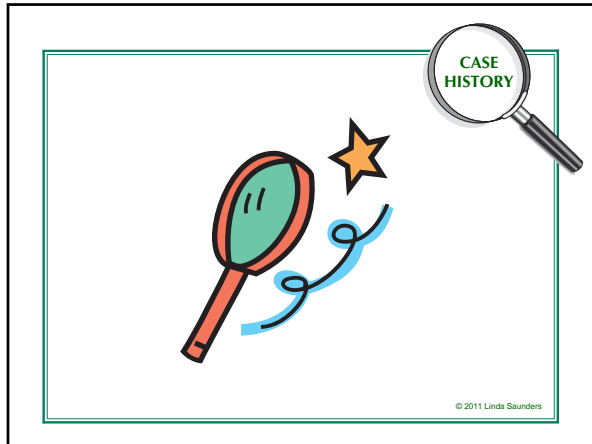
WHAT'S IN IT FOR YOU TODAY?

OVERVIEW

- Emphasize the importance of effective witnesses
- Highlight expert's role
 - Partnerships with investigators & accountants to fact check allegations through accounting and third party records



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HOYLE INSURANCE CO.

- Rick Hoyle incorporated his commercial insurance company in 1979
- Courted by First Security Bank:
 - To buy his book of business
 - To buy the company name and his goodwill

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HOYLE INSURANCE CO. AFTER 1ST SECURITY PURCHASE -Eff. 1/1/1996—

- Retained Hoyle Insurance name
- Insur Co. subsidiary of 1st Security Bank
- Rick was no longer a shareholder—now the Sales Manager earning salary and commissions
- Rented existing office from Hoyle RE
- Kept old Hoyle employees



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THE INVESTIGATION STARTS AFTER—

CASE HISTORY

- A customer complained to DOI and
- A competing agency complained to DOI

RICK HOYLE REPEATEDLY OFFERED TO EXPLAIN THE CUSTOMER COMPLAINT PERSONALLY, BUT TO NO AVAIL.





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THE CONFIDENTIAL INFORMANT—

CASE HISTORY

- The insurance company bookkeeper became DOI's confidential informant
- She secreted away documents for DOI



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SEARCH WARRANTS EXECUTED MAY 1997—

CASE HISTORY

- Raided insurance office
- Cleaned out mini-warehouse
- Took all computers
- Seized over 500,000 documents that were Bates numbered by the Attorney General's Office





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RICK HOYLE GONE—

Seems that Mr. Hoyle was out of town the day of the raid at 1st Security corporate offices May '97!

REMEMBER: 1st Security owned Hoyle Insurance since 1/1/1996





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RICK HOYLE ARRESTED JUNE 1997—

Grand Jury Indictment for:



- Insurance fraud
- Forgery
- Grand Theft
- Racketeering—134 Predicate Acts (Felony acts against >100 businesses)



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RICK HOYLE IN JAIL ONE DAY—



- Televised in shackles and jail PJs
- Idaho Stateman June 17, 1997: "Ex-Hoyle employees face fraud charges—Authorities allege more than \$500,000 was taken from business clients."



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RICK HOYLE — IF CONVICTED:



- 14 years in prison
- 5 more years for destroying evidence
- \$25,000 fine



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RICO — Racketeer Influenced and Corrupt Organizations:

- Enacted in 1970
- To fight infiltration of organized crime into legitimate businesses
- Very controversial law at the time





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RICO — Racketeer Influenced and Corrupt Organizations:

RICO	HOYLE
• Illegally gotten funds	• Thefts from customers
• To legitimate business	• Hoyle Real Estate Co.

- Lis Pendens placed on all Hoyle RE Company properties




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THE STATE BROKE PROMISES—

CASE HISTORY


- Trial date:
 - ✓ January 1998—no
 - ✓ June 1998—no
 - ✓ Finally started April 1999
- Promise to jury:
 - ✓ Six week trial
 - ✓ Went over 10 weeks

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THE VERDICT— NOT GUILTY ON ALL COUNTS FOR:

CASE HISTORY

- Soliciting the destruction of evidence
- Racketeering
- Misappropriation of premium funds
- Solicitation of grand theft


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THE VERDICT— NOT GUILTY ON ALL COUNTS:

CASE HISTORY



- However, hung jury on 7 predicate acts
- Total value of 7 predicate acts \$6,000

AG wanted to retry these 7 alleged thefts, but Defense argued double jeopardy and won.

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**CIVIL TRIAL —
NONE**

This case settled “out of court” for an undisclosed amount.





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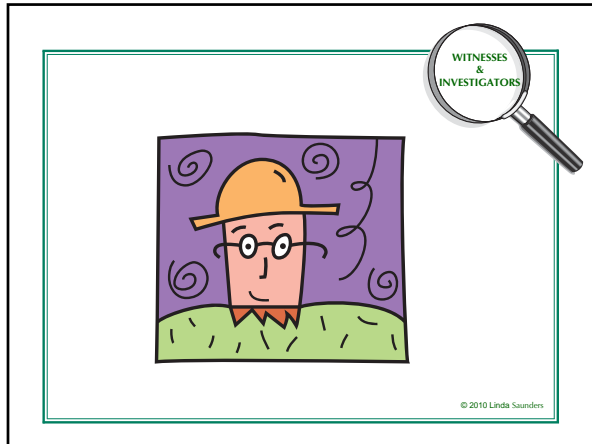
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MY ASSESSMENT:

- Theft was a figment of the Prosecution’s imagination—cause:
Lack of accounting skills on the part of the accusers & fact witnesses.



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THE PROSECUTOR—

- Overzealous showman out to make a name for himself
- Told Office Manager on day search warrant was executed that some day “This office will be mine” (RICO statutes can seize property if convicted)

NOTE: He quit AG’s office 1 mo. before the final trial date.


PROSECUTION’S CPA—

- Mr. ‘Jones’ was a Boise CPA hired as the Prosecution’s expert accounting witness
- Relied on bookkeeper’s analysis
 - Didn’t use plain language to the judge and jury
- Changed CPA firms, so didn’t realize he had a huge conflict of interest

WITNESSES
&
INVESTIGATORS

DEPT OF INSURANCE INVESTIGATOR—

- Over zealous Prosecutor out for show used DOI investigator to “get this guy”
- Investigator also relied on her bookkeeper “confidential informant”
- Neither had accounting skills to ferret out accounting logic




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WITNESSES
&
INVESTIGATORS

THE BOOKKEEPER—

- Didn't have accounting skills to do her job (e.g. didn't know difference between accrual and cash basis acctg.)
- Always behind on her work
- Never reconciled accounts receivable when they changed to new software
- Lied about (next slide):




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WITNESSES
&
INVESTIGATORS

THE BOOKKEEPER'S CREDIBILITY—

- She lied about:
 - Her credentials on her resume
 - Said she had an accounting degree and was ready to sit for CPA exam (Defense PI found only one accounting class and no degree in her one year of college)
 - Paid herself for false company trips
 - Forged Hoyle's signature on checks




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WITNESSES
&
INVESTIGATORS

THE BOOKKEEPER'S CREDIBILITY—

- Given immunity
- Caught in her lies
- When the jury was polled after trial, they said they didn't believe her




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WITNESSES
&
INVESTIGATORS

OTHER WITNESSES—

- Prosecution never called any of the 100 customers who they claimed were cheated
- Jury wondered why
 - But, defense called customers who claimed they did not "know" they had been cheated



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WITNESSES
&
INVESTIGATORS

FOR INVESTIGATORS—

- Investigate witnesses early in the case
- Beware of witness's agenda
- Beware of your client's (the prosecutor/the attorney, etc.) agenda
- Find an accountant to verify financial facts when needed

❖ *Don't be biased or blinded by who hires you!*



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FACT WITNESSES—

- Testify as to the facts in the case
- Cannot testify to hearsay (such as “someone told me”)
 - The bookkeeper and the customers were fact witnesses
- A CPA or PI can be fact or expert, depending on the testimony

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EXPERT WITNESSES—


- Testify as to the facts in the case
- And also can testify to hearsay (such as “in my opinion based on my training as a ...”)
 - Accountant and medical professional are frequent experts
- A PI who testifies to video quality, handwriting, etc. may be an expert

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FACT vs. EXPERT WITNESS

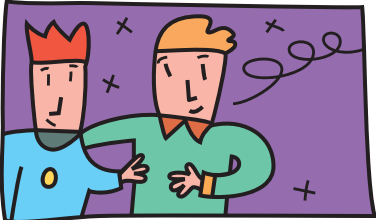
EXPERT WITNESSES—

- In the Hoyle trial, jurors said the experts were pivotal in determining the outcome of the trial
- When fact witnesses can't or don't testify successfully, the experts can make the difference in a jury trial



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PARTNERING WORKS




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PARTNERING WORKS

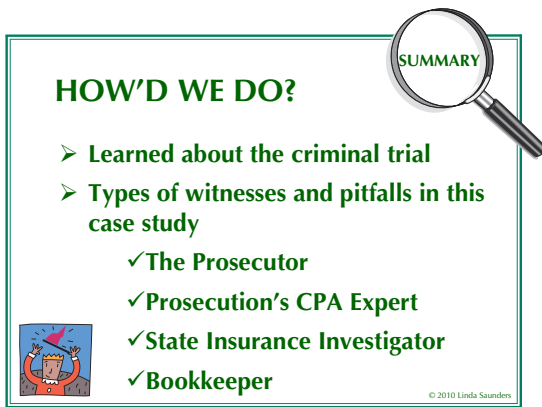
THE FORENSIC ACCOUNTANT—

- Don't try to "make do" with the accounting records if you're in over your head
- Use accountants judiciously for the financial matters and don't get accountant too bogged down in the other investigative work



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HOW'D WE DO?

Emphasized the importance of effective witnesses


- **Highlighted expert's role**
 - **Partner with a forensic accountant & investigators to fact check allegations through accounting plus other records**



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QUESTIONS



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