

AN INTRODUCTION TO INTERNET-BASED FINANCIAL INVESTIGATIONS

Structuring and Resourcing the
Search for Hidden Assets
and Information

KIMBERLY GOETZ



© Kimberly Goetz 2011

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior permission of the publisher.

Kimberly Goetz has asserted her moral right under the Copyright, Designs and Patents Act, 1988, to be identified as the author of this work.

Published by
Gower Publishing Limited
Wey Court East
Union Road
Farnham
Surrey, GU9 7PT
England

Ashgate Publishing Company
Suite 420
101 Cherry Street
Burlington,
VT 05401-4405
USA

www.gowerpublishing.com

British Library Cataloguing in Publication Data

Goetz, Kimberly.

An introduction to Internet-based financial investigation : structuring and resourcing the search for hidden assets and information.

1. Forensic accounting. 2. Investigations--Computer network resources. 3. Internet searching.

I. Title

363.2'5'0285'4678-dc22

ISBN: 978-0-566-09190-2 (hbk)

ISBN: 978-0-566-09191-9 (ebk)

Library of Congress Cataloging-in-Publication Data

Goetz, Kimberly, 1971-

An introduction to internet-based financial investigation : structuring and resourcing the search for hidden assets and information / Kimberly Goetz.

p. cm.

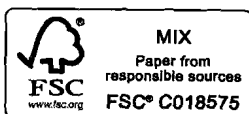
Includes index.

ISBN 978-0-566-09190-2 (hardback) -- ISBN 978-0-566-09191-9 1. Fraud investigation. 2. White collar crime investigation. 3. Internet. 4. Business ethics. I. Title.

HV8079.F7G64 2010

363.25'968--dc22

2010033621



Printed and bound in Great Britain by the
MPG Books Group, UK

List of Abbreviations

The following abbreviations are used in this book:

AFIS	Automated Fingerprint Identification System
AG	<i>Aktiengesellschaft</i> (German business designation)
AKA	Also Known As
AOL	America On Line
BBB	Better Business Bureau
CPA	Certified Public Accountant
DBA	Doing Business As
DBE	Disadvantaged Business Enterprise
DOT	Deed of Trust
DPA	Durable Power of Attorney
DPAHC	Durable Power of Attorney for Health Care
EBIT	Earnings Before Interest and Taxes
EBITA	Earnings Before Interest, Taxes, and Appreciation
EDGAR	Electronic Data Gathering, Analysis, and Retrieval
EPA	US Environmental Protection Agency
FASB	Financial Accounting Standards Board
FBI	Federal Bureau of Investigation
FEIN	Federal Employer Identification Number (same as TIN)
FinCEN	Financial Crimes Enforcement Network
FINRA	Financial Industry Regulatory Authority, Inc.
FKA	Formerly Known As
FOIA	Freedom of Information Act
GAAP	Generally Accepted Accounting Principles
GmbH	<i>Gesellschaft mit Beschränkter Haftung</i> (German business designation)
GP	General Partnership
HCD	Health Care Directive (Advanced Directive or Living Will)
ICANN	Internet Corporation for Assigned Names and Numbers
IRA	Individual Retirement Account
IRS	Internal Revenue Service
JDLR	Just Doesn't Look Right
JTWROS	Joint Tenancy with Right of Survivorship
LLC	Limited Liability Company
LLP	Limited Liability Partnership
LP	Limited Partnership
NADA	National Association of Automobile Dealers
NAIC	National Association of Insurance Commissioners
NAICS	North American Industry Classification System

NASDAQ	National Association of Securities Dealers Automated Quotation
NCIC	National Crime Information Center
NKA	Now Known As
NYSE	New York Stock Exchange
OBO	On Behalf Of
PACER	Public Access to Court Electronic Records
PLLC	Professional Limited Liability Company
PLLP	Professional Limited Liability Partnership
POD	Pay on Death
QCD	Quit Claim Deed
REIT	Real Estate Investment Trust
RV	Recreational Vehicle
SA	<i>Sociedad Anónima</i> (Spanish company designation)
SA	<i>Société Anonyme</i> (French business designation)
SEC	Securities and Exchange Commission
SEDAR	System for Electronic Document Analysis and Retrieval
SIC	Standard Industrial Classification System
SLAPP	Strategic Lawsuit Against Public Participation
SOS	Secretary of State
SOX	Sarbanes-Oxley Act
SSDI	Social Security Death Index
SWD	Statutory Warranty Deed
TIN	Taxpayer Identification Number (same as FEIN)
UCC	Uniform Commercial Code
VPN	Virtual Private Network
WD	Warranty Deed

About the Author

Kimberly Goetz is currently the Financial Assurance Officer for the Washington State Department of Ecology's Hazardous Waste and Toxics Reduction Program. She oversees the implementation of financial assurance programs for facilities handling hazardous or dangerous waste in Washington State. She also handles corporate finance, economic, policy, and statistical analysis and coordinates legislative issues for the program. Prior to joining the State Department of Ecology, Kimberly worked for approximately five years conducting business investigations and more than eight years as a legal assistant and paralegal working in the areas of complex litigation, estate planning/probate, and business law. She is a former member of the Washington State Bar Association's Disciplinary Board and the Thurston County Teen-Works Advisory Board; she is currently a member of the Board of Directors of Sean-nós Northwest. Kimberly's BA in Political Science (International Relations) and Global Studies (Development and Social Justice) is from Pacific Lutheran University in Tacoma, Washington and her MPA (Public Policy) is from The Evergreen State College in Olympia, Washington.

Preface

I would have loved to have a book like this when I started doing investigations. My initial training consisted of a two-day investigator course and a one-day legal education seminar about fraud. While I had an extensive background working for attorneys in a variety of fields of law, I really didn't have a clear idea about how to look for information or how to understand what I found. I could do legal research and I could do library research, but Internet research was something new. I had some successes, made some mistakes, and learned a lot in those first few years. This book is a summary of everything I ended up teaching myself.

Please note that the materials in this book are not intended to be legal advice or instruction. Information about laws and legal documents is presented from the perspective of an investigator, not a lawyer. A lawyer would probably disagree with some of the explanations I provide. The information presented is only a general guide based on my personal experiences. Laws, regulations, and standards may be different in each jurisdiction. If you have questions about legal issues, you should address them to an attorney or other relevant expert in the appropriate country, state, or county. My explanations are not "legal" explanations—they are intended to be "real world" explanations.

This book not only summarizes my opinions and experiences related to financial investigations but it also reflects my strong belief in making information understandable and accessible. I firmly believe that information should be presented in a way that the audience is most likely to understand. The language in this book was chosen to enhance the reader's understanding, irrespective of whether that language is "standard" English. When faced with a choice between plain English and proper grammar, I default to plain English. Good grammar may be important, but not at the expense of communication. As Winston Churchill is reported to have said, "This is the sort of English up with which I will not put." I wholeheartedly agree. I also wholeheartedly recommend that investigators and other regulatory employees adopt a similar attitude. "Legalese" and "bureaucratese" may be technically correct (and are sometimes necessary), but they don't do a very good job of communicating a message. I sincerely hope you understand every paragraph in this book the first time you read it. I also hope that this book helps you write investigation reports that are easy for your audience to understand the first time. When in doubt use short sentences and active voices. Avoid using jargon and acronyms as much as you possibly can.

While the majority of this book is focused on Internet-based investigations, parts of the book also apply to other types of investigations. Not every part of the book will apply to every investigator. It is still a good idea to read the parts that don't necessarily apply to you and your job. It is possible that one day your job will include these activities. You could be asked to assist on an investigation that differs from the kind you are accustomed to performing. Either way, it is advantageous for you to know how other investigators do their work and how that work differs from your own.

Finally, please keep in mind that the tips and suggestions I present are based on my own personal experience and work for me. You may view a situation from a diametrically opposing position—and that's OK. No two investigators will conduct identical investigations. What works for me might not work for you. The suggestions in this book are exactly that: suggestions. They are not rules. They are not laws. They are just good ideas. Feel free to take them, leave them, or change them to suit your own needs, personality, and investigation style. I hope the ideas and advice in this book help make your job easier and your investigations more effective.

Kimberly Goetz

Contents

<i>List of Figures</i>		<i>vii</i>
<i>List of Abbreviations</i>		<i>ix</i>
<i>About the Author</i>		<i>xi</i>
<i>Preface</i>		<i>xiii</i>
Chapter 1	Introduction: Why and Where to Start	1
Chapter 2	Before You Start: Ethical Considerations	7
Chapter 3	Thinking About Financial Fraud and Investigations	17
Chapter 4	What Can You Do With Money?	23
Chapter 5	Legal Structures	37
Chapter 6	Legal Documents	45
Chapter 7	Starting the Search	57
Chapter 8	Real Estate Records	69
Chapter 9	Search Engines and Web Portals	77
Chapter 10	Government and Law Related Websites	87
Chapter 11	Commercial and Business-Related Websites	93
Chapter 12	Websites from Nonprofits and Other Organizations	103
Chapter 13	Additional Websites and Resources	109
Chapter 14	Requesting Additional Information and Understanding What You Receive	129
Chapter 15	Getting Help from the Numbers	141
Chapter 16	Dealing with People Problems	153
Chapter 17	Telling the Story	169

Chapter 18	Final Thoughts and Considerations	183
Appendix A:	Practical Suggestions for Organizing Your Investigation	187
Appendix B:	100 Questions to Answer When Telling the Story	195
Appendix C:	Writing Internet-Based Investigation Plans and Reports	215
Appendix D:	Quick Answers to Common Questions	223
<i>References</i>		225
<i>Index</i>		227

List of Figures

Figure 4.1	The “DISH” Model of Asset Disposition	24
Figure 17.1	Sample Flowchart	170
Figure 17.2	Sample Business Relationships Chart	171

Introduction: Why and Where to Start

Many public sector employees find they need to perform financial investigations even though they have no financial training or expertise. Perhaps you are a new employee who has simply been told, “Here are the program rules and some applications. Figure out which ones are eligible and which ones aren’t.” Alternatively, you might be an engineer who oversees the cleanup of a toxic waste site and you need to track down the companies that contributed to the pollution so they can help to pay for the cleanup. Maybe you’re reading this book because you work for a quasi-governmental agency and you’ve received a complaint about an attorney mishandling a client’s money. Alternatively, maybe you’re an attorney and need help finding the assets absconded by your client’s former spouse.

Training about investigation techniques and resources tends to be very limited, even in law-enforcement agencies. In my experience, training on how to find information without incurring significant expense is virtually nonexistent. Employees who find themselves in these types of situations frequently resort to on-the-job training. This book is intended to help fill the void for those employees. It will provide practical tips on how to conduct a financial investigation—the type of information that new investigators usually have to learn through trial and error. The book is specifically designed for beginning investigators and regulatory employees who conduct financial investigations as a portion of the job. It is not targeted at forensic accountants or others with extensive investigation experience.

If you suspect that you don’t have the full financial picture, how can you go about finding more information? More importantly, how do you find that information in a timely manner for little or no cost? Frequently the answer is the Internet. If you know where to look (or, perhaps more importantly, *how* to look), you can find considerable information about most companies and individuals in the United States. By starting with some basic information, you can frequently learn more than you ever thought possible. These materials will provide you with a rough guide to finding information on the Internet—both what questions to ask and how to start looking for the answers. If you’re new to investigations or need some help using Internet-based methods, these materials will give you a good start.

For the purposes of this book, I will simply refer to the target of your financial investigation as the “subject.” This may include program applicants, potentially liable parties, companies that may have committed a regulatory infraction, and other related individuals and businesses. The term “subject” is not intended to be limited to the applicant or respondent in an investigation; it is merely a catchall term used for the sake of simplicity.

In addition, it’s important to know that this book is intended primarily for investigators in the United States. The terminology is specific to US companies and subjects (as are date

and currency notations). However, other countries should have equivalent documents or similar legal concepts even if they have different names. If you are investigating people or businesses in other countries, you may need to do additional research to find out what those equivalent documents or concepts are called.

Why Use These Techniques?

There are many situations when these techniques may be useful. While some investigators may have access to paid databases such as Dun & Bradstreet, LexisNexis, or Westlaw—expensive subscription products that can provide a vast quantity of data—most of us are not that lucky. The techniques explained in this book are intended to assist employees from federal, state, or local agencies who do not have access to paid database resources and are looking for a free or low-cost alternative. Even if you have access to information from paid databases, you may want to try these techniques when you want (1) to verify information you have obtained from another source, (2) to obtain information not available through paid database sources, or (3) to try to find information that you don't know to search for in paid resources. The same basic techniques can be used in each of these situations.

The first example of when to use these techniques is if you don't have access to paid databases. Access to resources like LexisNexis, Westlaw, and Dun & Bradstreet reports is very expensive and as a result, many agencies and organizations do not have routine access to these databases. If you work for a state agency, you may have access to some or all of these paid resources through another part of your agency, a regional association of state agencies, or an organization in which your agency is a member. (If you don't know whether you have access, check with your agency's regional contact person or membership coordinator.) If you work for a local government entity, a nonprofit organization, or some other type of company, it is still possible you might have access to paid database resources. If your organization has a fundraising or development office, they may have purchased database access. Your organization may also belong to a group that provides access to paid databases. If none of these opportunities are available to you, you may be able to purchase access to one or more databases on a limited basis. Your organization may also have an existing partnership with another company or organization that has access and may be willing to assist you on a limited basis. However, if none of these situations applies, you may need to look for other methods of finding information.

The second situation when these techniques will be useful is to verify or further explain the information you obtained from the subject or a paid database. Just because a credit bureau reports an outstanding debt or judgment doesn't mean it really exists. A paid database might report that your subject owns a house in another state—is that true, or did the subject just co-sign the mortgage and is listed on the title as a result? Or does the subject's tax return show a deduction for mortgage interest paid, but the database report not show a corresponding parcel of real estate? These are the types of situations where paid databases are not as reliable as they might otherwise appear. Independent verification of the information you obtain from a paid database is very important, especially if that information is the basis for a fine, penalty, or legal action.

The third situation is when you want to access information that is not available through paid databases. This includes information in many government databases,

including professional licenses and other business information. While it may not seem like information that is typically applicable to a search for assets, a professional license or other certification may give you a clue about who your subject is and possibly even other businesses they may own. You may also obtain information from a subject's tax return, insurance policy, or similar documentation that is not verifiable through a paid database, such as ownership of an important piece of art or valuable collection.

Finally, you may want to use these techniques to search for other information you don't know about. Paid databases can be great, but they don't incorporate the "human" factor that is critical in conducting investigations. Take a hypothetical situation: say you are investigating a firm whose owners say they lease their business location rather than own it. Their monthly lease payments are made to an unrelated property management firm. When you look up the name of the property owner, the county says it belongs to "The Bachbeet Family Trust." Neither the lease nor the agreement establishing "The Bachbeet Family Trust" has been recorded with the county, so you don't have a copy of either document. There is no public record except the deed that even mentions "The Bachbeet Family Trust." A paid database will stop there. It doesn't have the ability to see the connection between the name "Bachbeet" and the subjects of your investigation: Mr. Bach and Mr. Beethoven. As long as they are careful about how they set up and use the trust, there may never be a clear connection that any paid database will ever find (even on an "associated names" report)—but your human intuition can make enough of a connection to help you find relevant information.

The Skills You Need

Looking for hidden assets is not the purview of any single discipline. You need to know at least a little about accounting, law, finance, banking, business, public records, and investigation techniques. In other words, it requires you to use both your logical left brain and your creative right brain. Because of the diverse skills required, it may take more than one person to investigate a hidden assets case to the fullest extent possible. This book is not intended to be a comprehensive investigation manual; it is intended to give you an idea about what information is available for no or low-cost and how to use that information to tell a story. You may want to use some of these techniques just so you can say you personally reviewed a document before you have to testify about a case in court. You can also use these techniques as a screening tool to do a cursory review of a subject's finances to figure out whether it is worth contacting a trained investigator for further assistance.

For many investigators the most successful approach to fraud investigation is to place yourself in the subject's position: if you had a particular asset, how would you hide it? What evidence would you leave behind? (Just don't be surprised when they manage to think of ways you never would have dreamed up.) You may find inspiration in the most unlikely of places. Financial investigation and forensic accounting texts usually focus on frauds committed by employees against businesses. Corporate fraud texts usually focus on Enron-like deceptions related to hiding losses and financial instability. However, the techniques that can be used to disguise thefts or business losses can probably also be used to hide business profits. Financial schemes that employees can use to steal from their employer can also be used by business owners to covertly divert profits from the

company to their personal accounts. So the next time you read a news article or see a television special about financial fraud or identity theft, ask yourself how a subject could use the same technique to hide assets from you.

Where to Start: Beginning an Investigation

This book is intended to be an introduction to using the Internet to conduct financial investigations. However, searching the Internet for information is neither the first nor the last step. Before you begin an investigation, think about the resources that are available to you through your employer, resources provided by organizations you belong to, and resources that are available to the general public.

The first place many of us overlook is our public library. Not only do librarians have access to vast amounts of information, they have special training on how to access that information. If your local public library does not offer the resources or assistance you need, check with your local university or state library. If you went to school at a local university, you may have alumnus privileges. Even if you can't borrow from the library, it can still be an excellent source of information.

The second source of information that can be easy to overlook is a personal visit. For many investigations, an on-site visit is a routine part of the investigation or review. Even if it is not required, you may find a visit very helpful for some cases. You may find a business with someone else's name on the door. You may find the last parcel of vacant land in a newly developed industrial area. Or you may find exactly what you are supposed to find—a legitimate company going about their business just as they claimed.

Finally, remember to take advantage of experts you work with or that you may know through other professional relationships. Does your agency have an economist on staff? Need an expert in accounting? Try your organization's bookkeeper. Need some legal information? Try contacting the manager down the hall that went to law school (even though they never practiced law). While these experts may not be able to answer all your questions, they may be able to provide answers to some of your most basic questions and help guide the direction of your investigation.

Before you start searching the Internet, it is also important to collect and organize all of the information you already have related to your subject. What is the purpose of your investigation? Who is your subject? What type of investigation are you conducting? What will be the final result of your investigation? Are penalties or sanctions possible? Is your work purely administrative, or could there be criminal charges filed? Each of these questions will affect what steps you take, what resources you use, and how you report your findings.

Filling in the Holes

One way that Internet-based financial investigations differ from other types of investigations is their focus. You can't use the Internet to audit a company's books or conduct a credit check. Information you find on the Internet can instead help you fill holes in your investigation. For example, perhaps you're wondering why a parcel of real estate shows up on a subject's financial statement one year, but not the next. You can use

the Internet to try to find an explanation—like a divorce filing and a deed transferring the property to the subject's former spouse. Or perhaps you're wondering why the subject's company laid off half its workforce. Finding the minutes of the local city council meeting where the council members voted to cancel the company's city contract might be the answer you're looking for. While those documents can (and sometimes must) be obtained in person, using the Internet can save time and avoid false starts. You can find more information in less time when you don't have to leave your desk.

Finding more information in less time also has a significant downside: numerous false leads. You might not think "Kimberly Goetz" is a particularly common name, but I'm not the only one out there (as I periodically have to remind the various credit bureaus). A name is only one piece of the puzzle.

Contrary to what you see on television, there is no "magic" database that will tell you every company a subject has a contract with or every bank where they have a safe deposit box. Regardless of what conspiracy theorists might believe, the government cannot track your every movement or how much money you have in your wallet at any time. There is simply too much information to collect, store, organize, and access for that to be the case. If a "magic" database actually did exist, there wouldn't be any need for the FBI's "Most Wanted" list—law enforcement could simply round up criminals at will (just like they do on television).

There are many resources available where you can find extensive information in furtherance of your investigation, but those resources are limited by what information is digital. The odds that a subject's yearbook photo is available on-line are directly affected by how recently that photo was taken. The chances are extremely slim that a high school or college graduation photo or permanent student record from 1953 has been scanned, indexed, and annotated. No hacker, regardless of skill, can access information that has not been stored digitally. If the information only exists on paper, you're not going to find it on the Internet (despite what you see on television).

"There's No Such Thing as a Free Lunch"

Perhaps a better warning is: "you get what you pay for." Most of the resources discussed in this book are available at no cost, while a few may charge nominal fees of a few dollars. Why aren't more sites free? The question you should actually ask is, "Why aren't fewer sites free?" When using free and low-cost Internet sites, it's a good idea to consider why the information is available for free. Government sites may make information freely available to meet legal obligations under federal and state Sunshine laws; they can save time and labor costs if customers can access documents directly instead of asking a government employee to access it for them. Some companies may also make corporate documents available on-line to enhance customer service or meet financial disclosure obligations.

Private websites, however, are likely not under any obligation to provide any information to the public of any kind. So why do they? A nonprofit entity may receive grants and donations to fund website maintenance, but a business needs to make money. How do they make money while providing you free information? Depending on their business model, the company might rely on advertising or sponsored links. They can require a free registration and subsequently sell the personal information they obtain. Or they could provide you with limited free information in order to get you to purchase

more complete records. Regardless of which method these sites use, remember that you are helping them to make money even if you don't pay them with a check or credit card.

If you have found a link to important information from a private website, especially one that requires a subscription or payment, stop and consider where *they* get their information. Many commercial websites earn their money by creating their own paid version of free information. Some of these for-profit companies are doing exactly the same type of thing you are doing—they're just doing it bigger and faster. Always consider the ultimate source of the information you are accessing. If you are looking at recorded documents from the local county office, consider how the paid service obtained those records. Did they pay the county to obtain copies of the documents, spend employee time scanning those copies, and create their own database of all the scanned documents? Or does their database merely search a database you can search yourself for free?

It is very important to understand the source of documents you access on the Internet. This information can help you judge the credibility of the documents and evaluate whether payment for those documents is appropriate. Understanding the source of documents will also be important as part of authenticating those documents if you use them as part of the basis for your final determination or recommendation.

Case in Point

I routinely check my credit report and I strongly recommend everyone else does as well. Mistakes happen: a payment might not be posted correctly or the wrong account might be referred to collections. Identity thieves may apply for (and be granted) extensive credit in someone else's name. Unfortunately, identity thieves can also steal your good credit (and burden you with their bad credit) with amazing ease. I know because it happened to me.

While I'm not going to describe the method used, I will say that the woman who stole my credit did so with relative ease. She didn't have to rifle through my garbage or steal my mail. As far as I know, to this day she doesn't have my Social Security Number. And yet her bad credit, collections, and judgments periodically show up on my credit report—presumably, my good credit shows up on hers as well (otherwise I doubt she ever would have qualified for the mortgage or car loan that recently appeared).

Information from the credit bureaus is commonly included in many paid database reports. In my case, that information may be wildly incorrect and completely unreliable. That is why it is a good practice to verify the information you obtain from paid databases. Otherwise, you could be embarrassed when your subject publicly corrects you in front of your boss or a judge.

2 *Before You Start: Ethical Considerations*

All of the advice and website resources discussed in this book are available to anyone, mostly for free or for a negligible cost through the Internet, the local library, or a local government office. Does that mean you should collect any and all information you can, or are there limits on what you can and should do? There may not be a universal answer to that question, but there are some important points to keep in mind when conducting an investigation.

Types of Ethical Issues

Ethical concerns in financial investigations generally fall into three categories: legal issues, privacy issues, and disclosure issues. It is important to remember that with our society's constantly changing technologies, issues related to privacy and disclosure are in a constant state of flux. However, as a government employee, you have a fiduciary responsibility to the citizens of your jurisdiction. You work for *them*, and your actions must be for *their* benefit—not your benefit, not your manager's benefit, and not your agency's benefit. If you do not work for a government agency, your behavior must still be ethical, even if for no other reason than the trouble you may find yourself in if you engage in questionable behavior.

LEGAL ISSUES

The first legal issue to consider is the extent of your authority. What law, rule, or regulation gives you the authority to snoop around in someone else's private affairs? That authority may or may not have clearly defined limits. If you work for a law enforcement agency, there is likely a bright-line rule about what you may or may not pursue and what may require a warrant, subpoena, or court order. Employees of regulatory agencies may not be so lucky—there may not be case law to tell you where the dividing line is.

If you are unsure what information you are authorized to collect, limit yourself to public information that anyone could obtain. While a subject may believe that the documents related to their home should not be public records, that belief is not your immediate concern. Those documents *are* public records that anyone can obtain. There is no ethical reason why you may not obtain a copy of those records if they are germane to your investigation. Access to some types of records is restricted and can only be obtained through a waiver, subpoena, court order, or similar legal document. If you are unsure whether to collect these types of records, consult your agency's attorney for assistance. Medical and other legally protected records should never be acquired without a specific