

**BEST PRACTICES: WORKING WITH WHAT WORKS
WARFARE OF THE MIND: CROSS-DISCIPLINARY COLLABORATION
IN FRAUD AND ASSET RECOVERY**

An experienced fraud and asset recovery lawyer and a specialist in the psychology of fraud detail the methods and benefits of their cross-disciplinary collaboration, with particular focus on harmonizing unconventional psychodynamic, investigative, and analytic resources with progressive legal techniques to prevail in the ferocious conflict with the other side.

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The process of prosecuting a fraud and asset recovery case in order to achieve economic justice for victims is complex. One area of ever-increasing complexity in contemporary asset recovery matters is their reach across multiple international boundaries. As individual countries have moved to tackle the problem presented by fraud within the confines of their own boundaries, the savvy fraudster has recognized the need for expansion beyond these boundaries. This expansion, combined with the near free and immediate movement of value across borders, has presented bad faith actors with the opportunity to successfully fragment their conduct across territorial lines and limits.

Investigations in concealed asset recovery projects are primarily concerned with locating those assets; the methodologies of recovery involve disparate though often overlapping sets of disciplines. The recovery of misappropriated assets (whatever form they may take) can be exceedingly difficult. As concealment is as important to the fraudster as taking, he invests considerable effort, money, and other resources to ensure his ill-gotten spoils—the *fructus sceleris*—remain undiscoverable. Although some cases may be more easily resolved, relatively speaking, most large-scale international asset tracing and recovery assignments are among the most challenging cases for forensic accountants, investigators, and litigators. In many such engagements, success requires the additional skills of specialized legal counsel working in collaboration with a team of multidisciplinary experts.

Fraud recovery lawyers' core skills transcend legal acumen; they pivot on the ability to fluidly assimilate massive quantities of fragmented and ambiguous (often intentionally misdirecting) information, sort the relevant from the irrelevant, and orchestrate the asynchronous

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activities of multinational teams of professionals operating under judicial orders issued in multiple jurisdictions. To achieve justice, however, fraud recovery lawyers also require the ability to think unconventionally and to devise and implement novel strategies, always within legal bounds, to outmaneuver the adversary.

There are many investigative options and legal remedies that can assist a victim of fraud. The potential for recovery is directly proportional to the level of time and specialized skill invested in the effort. A successful recovery effort requires an array of professional expertise, in addition to legal specialists such as investigative, accounting, technology, and human factor and “soft” intelligence analysis.

The initial planning phase is critical in any asset recovery project. The first and most important consideration must be to prioritize tactical objectives. Bearing in mind that in any civil recovery effort, the overarching goal is the recovery of assets, a number of key questions must be considered. Do you have a strong case either for damages or against misappropriated assets? Which jurisdictions are involved, and are they favorable to you? And, not least, what are the accessible assets (ranked from low-hanging to remote), and where are they located in relation to your principal legal action?

Once goals have been identified and prioritized, and a road map has been created that assists in steering the effort and assigning priority tasks to various professionals, it is necessary to gain some insight into the perpetrator’s ways of thinking, acting, and, perhaps most importantly, reacting. Beyond all other traditional methods and means, the success of a fraud recovery plan is crucially tied to the accuracy and completeness of understanding the fraudster

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himself—his characteristics, habits, foibles, talents, response patterns, and *modus operandi*. The ability to step into the shoes, if not the mind, of the sophisticated criminal, and to absorb his surrounding circumstances, proves invaluable to the professionals who seek to curtail his nefarious activities and address his wrongdoing.

In the context of economic crime investigations, *Know Your Criminal* is as important as *Know Your Customer* is to mainstream due diligence in the banking and finance sector.

It must be understood that the career fraudster has access to a wealth of information and professional advice concerning the obscuring and so called *legitimization* of ill-gotten gains. Fraudsters and their professional advisors are alert to the *indicia* that prompt scrutiny from revenue and law enforcement authorities. They study new and emerging money laundering opportunities so that they might remain one step ahead. They are thus well informed, have identified the loopholes, and are unrestrained in exploiting them accordingly.

Deceit is part of the human condition. Successful deceit, by its nature, requires the ability to persuade or convince others that all appears to be one way even though it might actually be otherwise. On the deceiver's side, such powers of persuasion are multiply constituted, borne of an ability to act coupled with a supreme, perhaps also even arrogant, sense of self-belief. The dishonest obligor must believe that he is entitled to what he takes and hides by virtue of the fact that *he is who he is*. Those whom he harms are viewed with contempt. Dostoevsky's insight into this world was aptly captured with two words at the end of his novel *The Brothers Karamazov*: "Senseless, he."

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But to what degree do these descriptions accurately elucidate the origins or mechanisms of criminal deceit? And, more significantly, in the context of an asset tracing and recovery case, of what practical value are such insights?

Human psychology—the doings of mental function and its impact on the outside world, which is especially adverse in criminal behavior—is profoundly more complex and inscrutable than appears. Tidy and ostensibly rational explanations for the drivers and effects—contemptuousness and arrogant self-belief—of asocial deceit and malfeasant persuasion are, on closer inspection, themselves something of a conceptual mirage, providing little more than a reassuring pseudo-sensicalness to something inexplicable and dangerous.

Fraud recovery professionals (such as CFEs and litigators) routinely confront a raft of such impenetrable psychological issues in their work. While each is a highly qualified specialist in his field, he is unprepared—save perhaps for a keen intuitive sense honed through years of experience—to, for instance, view and understand the problem sets of the case through the eyes of the perpetrator: What would the perpetrator have done? Whom would he have consulted? Where would he likely have hidden the loot?

How can such questions be deeply and usefully answered solely on the basis of fact patterns, banking records, and other hard documentation? The tendencies and activities specific to each dishonest obligor—important data in its own category for advancing an asset recovery case—vary according to where and from whom he learnt his trade, the opportunities that present themselves and, more pertinently, to his character, constitution, and psychological reflexes.

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Reliance on general human experience or an amateur-level understanding of mental architecture and behavioral propensities is inadequate to the task of addressing such matters in the prosecution of a complex economic fraud case. It is in this respect that psychological expertise is increasingly recognized as valuable in, for instance, rendering detailed and sophisticated psychological portraits of the protagonist and matrix of close affiliates, including an understanding of the ecosystem of human interrelationships (beyond fraudster-victim) in fraud matters.

At its core, fraud is warfare of the mind. The whole undertaking manifests and serves psychological forces deep within the fraudster himself that stand independent of the pure pursuit of financial gain. Fraudsters are not only internally driven by these forces, they also externally deploy an arsenal of psycho-social devices—more manipulative than coercive—that are more refined and sophisticated than in many other crimes. At best, these are only partially addressed by standard asset recovery instruments and techniques.

Asset recovery enterprises profit at every turn from psychologically sophisticated insight into the criminal instruments of fraudulence as well as the fraudster, the actor who deploys them. Psychodynamic Intelligence Analysis and related techniques,¹ applied to all the intelligence and hard data gathered by the multidisciplinary team, assist in piecing together the “soft” indecipherable or shadow elements of the complex fraud puzzle. In addition to rendering dynamic, three-dimensional profiles of the

¹ Stein, Alexander. (in press). *Warfare of the Mind: Innovations and Strategic Applications in the Psychology of Fraud*. FraudNet World Compendium of Asset Tracing and Recovery, 2nd Edition (Erich Schmidt Verlag, Berlin).

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fraudster, his network of affiliates, and their organizational operations, specialized knowledge of the mind and its propensities are equally useful in shaping and advancing counter-offensive stratagems, providing sophisticated forecasts of probable actions and reactions in complex settlement negotiations, and revealing emotional and psychological markers that can lead investigators to additionally useful sources of information or be used to exert meaningful pressure on the fraudster himself.

Psychodynamic approaches draw upon theories of mind and clinical precepts in psychology that construe human functioning as founded in the often conflictual interaction of underlying drives and forces within the person, particularly but not exclusively unconscious, and different structures of personality as shaped by formative influences and experiences. Harnessed as a methodology, this body of knowledge enables the highly-trained expert to discern dynamic internal systems and patterns—in a manner of speaking, to get inside the adversary’s head—in order to understand how the fraudster sees and experiences the world and his relationships with others.

Though Psychodynamic Intelligence Analysis represents gap-leaping advances in the application and deployment of psychological expertise in fraud, asset recovery, and fraud risk management, it did not spontaneously combust. The use of qualified forensic or criminal psychiatrists and psychologists by law enforcement and branches of the legal profession has a long history. To this day, their delivery of expert testimony is commonplace, providing authoritative opinions regarding, for instance, *mens rea*—establishment of the guilty mind required in most English law jurisdictions—and *animus nocendi*—the legal determination of a criminal’s *a priori* knowledge of illegality and intent to harm.

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They frequently also assist courts in opining as to a defendant's mental fitness or capacity, usually with specific reference as to legal determinations of criminal intent, mental competency, and statutory thresholds of legal insanity; attesting to a defendant's state of mind and how it affected his or her ability to author or commit certain acts in concurrence with the alleged criminal wrongdoing; or testifying as to the symptoms and conditions of a crime victim's post-traumatic duress. Forensic psychiatrists' assistance is enlisted in cases involving a psychiatric issue or requiring extensive knowledge of mental health law; in jury selection; or in presenting relevant psychiatric concepts and findings in language that the court can understand and use in instructing juries and rendering sentencing.

The first famous and widely publicized case involving the use of criminal profiling is that of Jack the Ripper in 1880s London, when two physicians, George Phillips and Thomas Bond, used crime scene clues to make predictions about the British serial murderer. On this side of the Atlantic, the first well-publicized case in which a psychological profile was used to crack a case was that of the "Mad Bomber" George Metesky. Between 1940 and 1956, Metesky terrorized New York City, planting over 30 small bombs in movie theaters, phone booths, and other public areas. Sixteen years of routine criminal investigation had uncovered nothing that led the NYPD to the perpetrator, and so in 1956 they sought the help of New York State's then Assistant Commissioner of Mental Hygiene, Dr. James Brussel, a qualified psychiatrist.

Having studied crime scene photos and notes from the bomber, Dr. Brussel came up with a detailed description of the suspect. Brussel suspected that he was unmarried, foreign, self-educated, in his fifties, living in Connecticut,

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paranoid, and had a vendetta against Con Edison (the first bomb had targeted the power company's 67th Street headquarters.)

How did Dr. Brussel arrive at these conclusions about the suspect? His hypothesis regarding the suspect's probable age, for example, examined the hard data about the case that law enforcement provided him, and then drew on his clinical expertise rendering psychiatric evaluations. Because paranoia generally tends to peak around the age of 35, the bomber, 16 years after planting his first bomb, would then be in his fifties. Dr. Brussel's psychiatrically-informed profile provided a decisive turning point in the case and enabled NYC police detectives to narrow their search and locate Metesky, who was arrested and confessed in 1957.

The sophistication of profiling techniques has advanced as a science since the late 1950s, bringing about a broad array of niche and specialist branches of practice. The FBI, for instance, has an established *criminal investigative analysis* section, as do the metropolitan police departments of many densely populated urban centers. The CIA has a designated Behavioral Analysis Unit, and the UK's MI6 has an analagous version. One prominent forensic psychologist calls his work "investigative psychology"² and another calls his "crime action profiling."³ Methodology, terminology, and mission might vary but the core principle remains the same: providing assistance in bringing perpetrators to justice. Specialists in human psychology—the underpinnings of motivation and behavior—help investigators examine and interpret evidence from their distinct professional perspective to develop more detailed

² Professor David Canter, University of Liverpool, Centre for Investigative Psychology.

³ Richard N. Kocsis, PhD.

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descriptions and understandings of offenders than could otherwise be the case. The description can include psychological variables such as personality traits, psychopathologies, and behavior patterns, as well as demographic variables such as age, race or geographic location.

Each case is unique, bringing differing demands and requirements for the type, scope, and timing of profiling or other soft analysis. For example, organized crime is distinct in a host of fundamental ways from so-called disorganized crime (just as perpetrators of fraud and other high-value economic crimes are characteristically different from, say, murderers, rapists, or other violent offenders); the types of characters typically involved in each class of criminality likewise fall into markedly distinguishable profile groups.

Organized crimes are, in general, premeditated and carefully planned, and evidence is not easy to gather. Organized criminals tend to be antisocial in terms of the diagnostic criteria of social disorders, although, perhaps ironically, they live and operate within a highly codified order of social conduct in their organization and community. While they typically show no remorse, they can differentiate between right and wrong (as evidenced by their strong adherence to the tightly bound ethics of their social and organizational structures), they are calculating and usually hold an exorbitantly inflated sense of self. Disorganized criminals, by contrast, are just that. Their typical profile involves leaving an easily detectable trail; they tend to be unsophisticated and may be young, under the influence of alcohol or drugs, or mentally ill.

"White-collar criminal" is a common catch-all term, though in truth such offenders cannot be so readily classified into a

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single group.⁴ Nonetheless, from a traditional profiling perspective, they typically fall squarely into the category of the organized criminal. But beyond listing common traits that such actors tend to exhibit, accurately profiling white-collar criminals has historically proved challenging.⁵ According to the results of various studies conducted by the Association of Certified Fraud Examiners (ACFE) and noted in their 2010 *Report to the Nations on Occupational Fraud and Abuse*,⁶ approximately 95 percent of white-collar criminals have no previous criminal record. Furthermore, the higher the monetary value of the economic crime, the less likely it is that the perpetrator has a previous criminal record.

As mordantly put by Sam Antar—former Crazy Eddie CFO, de-licensed CPA, and convicted felon—"White collar crime is a crime of persuasion. It is a crime committed with a smile rather than a gun. Many white collar criminals are likable and charming people. They use their likable personality as a tool to gain the confidence of their victims. That is why white collar criminals are called 'con men' or 'confidence men.'" On August 17, 2009, Sam Antar testified before the New Jersey State Assembly Republican Policy Committee as an expert witness during their hearings on political corruption and white-collar crime. He stated that:

⁴ See, for example, Michael Benson and Elizabeth Moore, "Are White-Collar and Common Offenders the Same?" in Michael Levi, ed., *Fraud: Organization, Motivation and Control, Vol. I*, (Aldershot: Ashgate, 1999).

⁵ Levi (*supra*) implicitly questioned the usefulness of profiling most white-collar criminals as offenders who engage in a Benthamite calculation of costs and benefits, risks, and rewards (in contrast to non-financial criminals who are supposedly creatures of impulse).

⁶ *Report to the Nations on Occupational Fraud and Abuse*, Association of Certified Fraud Examiners, 2010, www.acfe.com/uploadedFiles/ACFE_Website/Content/documents/rtn-2010.pdf.

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"White collar crime is more brutal than violent crime. The actions of one or a few corrupt public officials and corrupt businessmen affect the livelihoods of thousands of people. Treat them with the same disdain with which we treat serial killers because white collar criminals are economic predators. We are serial economic predators."

Underscoring Mr. Antar's point, the ACFE's 2010 *Report to the Nations* estimated the global cost of fraud to be 5 percent of businesses' annual revenues, which translates to approximately US\$2.9 trillion of economic losses worldwide due to fraud. Fraud and other related forms of serious economic crime are a scourge of pandemic proportions.

Extending the analogy with epidemiology, the pathogen of fraud continues to flourish in some measure as a direct consequence of the conventionality of current thinking regarding its cellular composition and behavior, and limitations of available methodological counter-agents to effectively forecast, suppress, or deter it. In the majority of cases to date, financial crimes have proved enormously difficult to detect beforehand; the vast majority of so-called anti-fraud programs—involving compliance protocols, regulatory legislation, psychometric testing, HR oversight, corporate culture makeovers, and other such template procedures—see functional success rates between placebo and snake-oil. Traditional forms of criminal profiling—primarily a nominally modified import from the profiling systems used by law enforcement agencies in organized and violent crime scenarios—is of limited assistance in detection and deterrence generally, but especially in regards to fraud.

Though addressing this sector of institutional fraud risk management is well within the scope of conceptual and

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methodological advances encompassed by Psychodynamic Intelligence Analysis, it falls into a separate category of implementation from asset recovery, which is the focus here.

In asset recovery cases, as discussed above, psychological insight about the protagonist, as well as pertaining to the other relevant constituents—the victims and other impacted stakeholders; the various asset recovery professionals, including investigators, litigators, and prosecutors; and the judiciary, legislatures, regulators, and policy-making institutions—provides uniquely demonstrable assistance in discovering the whereabouts of assets, managing case strategy, and returning value to victims.

One traditional schematic understanding of fraud (applicable to other financial crimes, too) is known as the Fraud Triangle. As devised by Donald R. Cressey in the 1950s, it established a triumvirate of simultaneous factors needed for an “ordinary” person to commit fraud: opportunity, rationalization, and pressure (or incentive, whether positive or negative).

Another popular mid-20th century view of fraudsters looked at the similarities between symptoms of antisocial personality disorders and the markings of leading economic criminals. Criminal psychopathy, a serious personality disorder characterized by virulently aggressive antisocial behavior, diminished empathy and remorse, feckless disregard, and disinhibited behavior, found easy favor with courts, juries, and popular imagination, and became far and away the most widely accepted psychiatric explanation for fraud. While the work of several psychiatrists, most prominently Hervey M. Cleckley and Robert D. Hare, influenced clinical, diagnostic, and criminological parameters of psychopathy, William and Joan McCord, a

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husband and wife team, authored a seminal work in 1964 titled *The Psychopath: an essay on the criminal mind*⁷ which became a leading reference source to the legal profession.

Even as a separate matter from their accuracy, these two-dimensional conceptualizations of the underpinning mechanics of criminal fraudulence provide scant practical value to asset recovery professionals. Yet they have remained at the forefront since the middle of the last century. They typify a historically entrenched focus on fraudsters wholly and solely in terms of psychopathology, and fraud as an asymmetrical bipolar event between the fraudster as dominant figure, and his victim, in the subordinate position.

Among an array of important innovations implemented through Psychodynamic Intelligence Analysis is conceiving the intertwining matrix of relationships involved in fraud matters spherically rather than linearly and hierarchically. Fraudster and victim are entwined in a relationship of mutual, albeit deeply imbalanced, interdependency; each requires and uses the other, though obviously with vastly different intentionality and outcomes. Asset recovery professionals form another quadrant, and the judiciary and legislatures yet another. Each must be taken into account on its own terms but also in connection to one or more of the others. Together, the stakeholders and participants exist in a dynamically interacting constellation.

There are numerous advantages to this robust and expanded understanding. To begin, examining the “soft” and relational factors—“humanizing” the groups and individuals—enables those of us working on the victims’

⁷ McCord, W. & McCord, J., *The Psychopath*, Princeton: Van Nostrand, 1964.

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behalf to more clearly, and thus usefully, grasp the countless irrational and unpredictable human variables at play, which inevitably impact—sometimes disastrously—the best laid legal strategies.

Each constituent can also be thoughtfully considered in temporary isolation, invariably revealing considerably more depth and detail to what had hitherto appeared only to be an innocuous or peripheral fact. If information is power, and well-interpreted information and understanding a doubling of that, the advantages of this approach are clear.

Take, for instance, an expansive psychodynamic view of fraud victims. Historically, the victim's participation—seen as allowing himself, however unwittingly, to be lured and bamboozled—was taken as prima facie evidence of simple-minded naïveté. This translated to a form of victim bias that negatively judged victims for having failed to avoid being one. Certainly fraud involves victim participation (by definition, fraud is a breach of trust or duty which by implication must have been originally assigned from one party to another), but it resolves nothing—socially, economically, or legally—to prejudicially decree culpability. Rather, firstly, they are victims in the truest understanding of the term: a person who has been harmed or adversely affected by another's wrongdoing.

Moreover, they are the equivalent of a crime scene. Each fraud victim is a first-order data source, uniquely positioned to provide valuable clues founded in his frontline experience. Far from being cause for derision, the victim can provide answers to the questions of how and why he became a victim, as well as useful information regarding the fraud's execution. Analysis of various attributes of multiple classes of victims, drawing on field techniques from sociology or anthropology, can yield

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substantially enhanced knowledge about the fraudulent enterprise and its architects. Psychological “fingerprints” gathered from victims via specialized interviews can provide valuable intelligence regarding the fraud’s methodology and, by extrapolation, the fraudster’s thinking and decision-making patterns. Such indicators can influence the outcome of an asset recovery exercise as well as lead to developing effective fraud prevention strategies for the future.

Departing further from the orthodox model of fraudster as psychopath—which posits a backward-looking diagnosis—he is more profitably regarded as a masterful organizational strategist and leader—a view offering actionable detail about the adversary in the here and now. To be clear, this perspective should not be misunderstood as equating a socially destructive economic predator with a legitimate corporate leader. Furthermore, there are meaningful distinctions among institutional frauds perpetrated by rogue employees, widespread multi-party or organizational malfeasance, and single-actor incidents (entrepreneurial fraudsters whose business enterprise is intentionally designed for illegitimate purpose).

But by considering the fraudster as more than merely ill; rather, as the entrepreneurial CEO of a complex, organized business entity, we open a field of tactically useful inquiry and understanding beyond hard data. We have a three-dimensional view of the adversary’s organizational and operational capabilities. In most instances, successful high-value fraud operations are staffed with a superior quality senior management team. But, as in any business, even the best-run Fortune 500 companies, there are invariably challenges and problems regarding, for instance, leadership, communication, team dynamics, internal rivalries, personality clashes, individual frustrations, and

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private ambitions, as well as a plethora of other day-to-day, run-of-the-mill cultural and operational issues.

Little if any of this is likely explicitly indicated in paper trails or bank records. But adroit investigative work invariably uncovers disparate fragments of material that, through careful psychological analysis, can yield critical insight into the opposition's strengths, vulnerabilities, and machinations.

An effective team functioning in a tautly structured organization is no less significant for the cadre of asset recovery professionals. Along with excellent planning and tactics, superior leadership and constant team management is required in the prosecution of a complex asset recovery case. The many disciplines in an asset recovery team must work together as an effective, well-oiled machine. The presence of a specialist in optimizing organizational dynamics delivers an additional edge in helping to refine and enhance collaboration and performance on the asset recovery team. Nothing can be left to chance. Data capture and case management must be conducted in such a way that team members have easy access to new information, or are directed to such as soon as it enters the system. Even the most minute, seemingly inconsequential piece of evidence might have deep and far-reaching implications for an entire case and therefore must be circulated to those who will appreciate its significance. Embedding Psychodynamic Intelligence Analysts into the asset recovery team opens a third dimension on formerly two-dimensional intelligence-gathering and data analysis, assisting forensic accountants and litigators in advancing case conceptualization, management, and prosecution every step of the way.

Beyond contributing to the team's forensic investigation, case management, and tactical strategizing, these

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techniques can be used to circumnavigate or neutralize judicial prejudice and legislative obstruction. This factor is often overlooked at the early stages of an asset investigation and recovery exercise. Getting the “wrong” judge or rubbing the “right” judge the wrong way can have consequences of catastrophic proportions.

Consider a case where the investigation is in its early stages. *Ex-parte* discovery orders are required along with sealing and gagging relief. The success of the entire operation depends on the maintenance of absolute secrecy. Applications are made before a particular court. The general consensus in legal circles is that Judge A is adamantly pro-civil liberty, perhaps socialist in orientation. Judge B, on the other hand, is well known to be conservative, having worked for years in one of the top corporate law firms before coming to the bench. Judge A is sitting on Monday; Judge B is sitting on Tuesday. You represent a large corporation that has been defrauded and has lost millions of dollars. You will ask the court to order discovery against a lengthy list of targets, who are not in themselves planned defendants, but simply have information. You will also ask the court to hear the matter *ex-parte*, thus excluding the public who otherwise have a civic right to know what’s going on in their courtrooms (they pay the tax bills, after all). Then you will ask the court to seal the record *and* prevent any of the targets from speaking about the proceedings. The potential objections to your strategy await like a Roman phalanx: This is an affront to freedom of speech!

How to proceed? Would you approach Monday Judge A or Tuesday Judge B? While all is in the context of sophisticated legal mechanisms, courts, and judicial rulings, the issues actually at play in this decision are at core about the people and personalities involved. It can

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prove invaluable to have a sounding board on the team who is skilled in parsing the psychological intricacies of such matters. This form of human factor counsel can also be utilized in making optimally aligned case responsibility assignments based on criteria other than legal competency and experience.

Psychodynamic tools can also be especially decisive in cases where settlement becomes a realistic prospect. As the aphorism goes: “A good lawyer knows his facts; a great lawyer knows his opponent.” Experienced lawyers understand that personalities play an enormous part in determining how and with what effect settlement negotiations play out. Effective representation of a client’s interest in this context, as in the courtroom, requires more than legal skill. An understanding of the opponent, and, equally, the opponent’s lawyer, is crucial. How is he likely to react to a given set of factors? What buttons can you push? Which should you avoid? There are cases where financial factors play second fiddle to other factors, whether they be environmental, emotional, cultural, or psychological. It is critically important to be able to recognize what is, or might be, at stake or at risk—on every conceivable level—for the opponent, and whether indeed it is worth engaging in settlement negotiations at all.

Many seasoned lawyers, like experienced law enforcement interrogators, bring refined intuitive skills to the negotiation table. But maximizing the probability of a win often pivots on being able to accurately predict how an opponent will play his cards, which cards he keeps close to his chest, and which he chooses to lay on the table. Strategizing and modelling settlement scenarios and contingencies in advance with the assistance of an expert trained in forecasting and discerning the potential ranges of human tendencies and responses enables a superior level of

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preparation, and can make the difference between an acceptable settlement negotiation outcome and a great one.

Core to the success of an asset recovery strategy is the ability to attribute appropriate significance to any given piece of information, as well as the ability to abstractly conceive how it might link to some other piece of information. The attribution of significance—hermeneutics, the science of understanding and interpretation—is, however, highly susceptible to deformation, depredation, or outright incorrectness as a consequence of confirmation bias, the tendency to favor information that confirms pre-existing beliefs or hypotheses, or a host of other factors relating to the influences of personality and experience on perception and cognition.

Misguided or mistaken perceptions, together with the misattribution or misinterpretation of significance, can have adverse consequences in nearly any situation but particularly in the context of an asset recovery operation, where they can retard, derail, or utterly jeopardize the process.

In this regard, the importance of cross-disciplinary collaboration cannot be overemphasized. In successful asset recovery exercises, the work of each profession and discipline is highly influenced by and builds upon the other. Each team member has an important role to play and brings his or her own set of skills and experiences to the table. Through collation of experience, cooperation, and collaboration of disciplines, a decisive path to recovery can be hewn through the rocky terrain that is asset recovery.