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OVAA Newsletter

## Publication Deadlines

If you have a submission for the newsletter, please advise the editor ASAP so space can be reserved. The actual submission content (articles, advertising changes, etc.) must then be received by the following dates:

Newsletter Issue .....	Submission Deadline
February 2019 .....	January 15, 2019

If you have an article that will  
**Enlighten, Educate or Entertain,**  
 kindly contact a member of the OVAA Executive  
 (See page 1 for Contact Info) for submission  
 guidelines and publication deadlines.



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## SEMINAR SUGGESTIONS

During the course of planning our year, we look to our members, associates, advertisers and friends either to provide guest speakers for our monthly meetings or to let us know what topics are of interest.

Should you wish to present a seminar for the OVAA Membership or should you have an idea for a seminar topic you would like to see presented, please contact:

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# FRAUD CAN COST YOU: MIDDLE MARKET FINDINGS AND HOW TO RECOVER LOSSES

WRITTEN BY JEAN-CHARLES PLANTE

The Association of Certified Fraud Examiners (ACFE) has released the 2018 Report to the Nations, Global Study on Occupational Fraud and Abuse, which reviewed a total of 2,609 cases – representing 125 countries and 23 industry categories – and unveiled over seven billion dollars in fraud losses. In Canada, median losses were almost double those in the United States, with smaller businesses losing a median of twice as much per scheme.

In this article, we share the key findings of the ACFE report including red flags and how middle market companies in Canada can protect their firms and minimize losses. We also discuss how a company can recover losses through insurance.

## Occupational fraud costs

Globally, the total losses reported in the ACFE Report exceeded 7.1 billion USD. Some cases were not reported for confidentiality purposes and thus the actual losses are significantly higher.

Although there is no break down of the total fraud costs in Canada, the median cost due to occupational fraud in Canada for the 82 reported cases was \$200,000, tied for the second largest globally.

An organization's size has an impact on its vulnerability to fraud. Organizations with fewer than 100 employees accounted for 28 percent of all cases and the highest median loss at \$200,000 USD. Larger organizations with employees over 100 employees accounted for the remainder of the cases and reported median losses under \$132,000.

One important take away from the data is that weak internal controls are a fraudster's paradise. In firms with fewer than 100 employees, 42 percent

of fraudulent activity can be attributed to this alone. As such, middle market firms may be able to reduce fraud by tightening internal controls and identifying key anti-fraud controls. The remaining key contributors to fraud include:

- Override of existing controls;
- Lack of management review;
- Poor tone at the top;
- Lack of competent person in oversight roles.

## How occupational fraud happens

Occupational fraud occurs mainly via corruption, asset misappropriation and financial statement fraud. For businesses with fewer than 100 employees, corruption remains the most common fraud scheme. Corruption and non-cash were the only fraud schemes more frequent for larger organizations. The frequency of all other fraud schemes reported occurred approximately twice as often for small businesses.

Frauds for small businesses globally were perpetrated more often by an owner/executive at 29 percent, compared to 16 percent for larger businesses.

*Continued on page 12*





# President's Pen & REP'S Ramblings

Happy New Year!!!! 2019 is here at last!! I hope everyone had a wonderful New Year's celebrating with close friends, family and ringing in the New Year together. It is a time to reflect over the past year and look forward to a new and exciting year .... 2019 is going to be an amazing year, I can just feel it. ... nothing but good times to come!! 2018 was a very busy year!! It seems like we didn't get a break!! It was one weather event followed by another... followed by another... throughout the year... no time to breathe in between events. Thankfully December was quiet which allowed time to get caught up before the holiday season. Hopefully, 2019 will be a little bit quieter so we can take time to enjoy more of a work life balance. Fingers crossed!!!

Our next luncheon seminar will take place on January 22, 2019. Frances Shapiro Munn from Nelligan O'Brien Payne LLP will be presenting "Can a waiver be a defence to liability, including negligence? Court of Appeal says yes". Our next seminar will be on February 12, 2019. Erin Durant from BLG will be presenting on "Juries in Personal Injury Trials: Considerations, Trends and Concerns". Alex McCann will be presenting on "Large Losses" on March 19, 2019. Please visit our website for the list of upcoming seminars, speakers, dates, topics and events.

Our Children's Christmas Party was held at the Midway on the 30th of November. A great time was had by both the children, moms and dads. It was a night of family fun, to kick off the holiday season and catch up with people in our industry. A time to share some Christmas cheer!! Santa Clause made a special appearance, much to the boys and girls delight, listened to children's wishes and gave presents to all the OVAA boys and girls!! Thank you so very much to our event sponsors, Helferty's, Service Master, Paul Davis and Kanellos Consulting.

Save the date – Past President's Night March 26, 2019 at the Canadian Tire Centre. Sens VS Boston. Out of Town Provincial Claims Conference – Co-hosted with TIAA – May 2nd and 3rd 2019. Our Annual Golf Tournament at the Meadows will take place on June 27, 2019.

The OIAA Christmas Party will be held at the Westin Hotel on December 12, 2018 and a great time was had by all. There were just under 1000 people in attendance at the party and once again it was a huge success!! Congratulations to the Christmas party committee!! Great job!!!

The 2019 Claims Conference will take place on January 23rd, at the Metro Toronto Convention Center. Our theme this year is "Future Now". In addition to the Trade Show, from 10:00am to 4:00pm, we will be hosting 9 educational seminars throughout the day at 9:00, 10:30, 12:30 and 2:00, with a variety of topics that would be of interest to all fields within the claims industry. Register online today.

Upcoming events for the OIAA – April 11, 2019 Toronto Delegate Elections

Once again, I invite anyone that would like to submit an article for consideration for our magazine and/or the WP, please submit it for review. Also, if you are interested in joining our Executive, please send an email to [ovaa.ca](mailto:ovaa.ca).

I hope to see everyone soon.

Sincerely,

Cindy Bridge, CIP, CRM  
OVA President/Ottawa Delegate

# Calendar of Upcoming Events

## February 2019

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28		

### FEBRUARY 12, 2019

11:30 (REGISTRATION)

12PM TO 1:30PM (LUNCH AND LEARN)

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# FRAUD CAN COST YOU: MIDDLE MARKET FINDINGS AND HOW TO RECOVER LOSSES

WRITTEN BY JEAN-CHARLES PLANTE

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In Canada frauds were perpetrated more often by an employee at 47% percent, with median losses of \$156,000, compared to median losses of \$600,000 for an owner or executive.

## Detecting occupational fraud

Between Canada, the United States and the rest of the world, the top three methods to detect fraud remains consistent: Tips, internal audits and management review as follows:

- In Canada, tips identified 32 percent of all cases, followed by internal audit at 21 percent and management review at 15 percent;
- In the United States, tips uncovered 37 percent of all cases, followed by management review at 14 percent and internal audit at 13 percent;
- Globally, tips detected 40 percent of the cases, followed by internal audit 15 percent and management review at 13 percent.

Tips can originate internally and externally. Globally, the largest internal source for reporting tips is an employee, at 53 percent, with the lowest being a shareholder or owner at two percent. The largest external tip source is a customer at 21 percent, followed by a vendor at eight percent and competitor at three percent.

Other than these, the study revealed several other ways occupational fraud can be detected in Canada, including:

- Other;
- Surveillance/monitoring;
- External audit;
- Account reconciliation;
- Document examination;

- By accident;
- IT controls.

Interestingly, for smaller businesses, fraud was less detected by tips at 29 percent compared to larger organizations at 44 percent.

## Perpetrators

Fraudsters who had been with their companies longer, tended to steal more. In 24 percent of the cases studied, those with a tenure in excess of 10 years stole \$241,000, compared to those who had worked for the company between one and five years, who accounted for a \$100,000 median loss.

Other interesting perpetrator demographics included:

- Males commit the most fraud activity
- Perpetrators tend to be between 36 and 45 years of age
- Most fraudsters have a university degree

## Victim organizations

Globally, occupational fraud tends to strike private companies to a greater degree. In the study, 42 percent of the victim organizations were private firms with a median loss of \$164,000 while 29 percent were publicly traded with a median loss of \$117,000.

As noted previously, corruption is the greatest type of occupational fraud committed. Below is a highlight of those industries most affected by this type of fraud.

- Banking and financial: 36 percent of all cases involved corruption, with a median loss of \$110,000;

*Continued on page 13*

# FRAUD CAN COST YOU: MIDDLE MARKET FINDINGS AND HOW TO RECOVER LOSSES

WRITTEN BY JEAN-CHARLES PLANTE

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- Governments and public administration: 50 percent of all cases involved corruption, with a median loss of \$125,000;
- Insurance: 45 percent of fraud was centered around corruption, with a median loss of \$153,000;
- Construction: 42 percent of the fraud cases reported were related to corruption, with a median loss of \$227,000.

## Red flags

There are several ways to spot a fraudster within your organization. Since the ACFE began compiling this report in 2008, there have been six consistent behavioural indicators.

Number one is living beyond one's means – flashy clothes, cars or houses that do not match with the individual's stated income.

Other red flags include a wheeling-dealing attitude or the tendency to make unscrupulous business decisions, association with a vendor or customer that goes beyond professional boundaries, financial hardship, a recent breakup or family turmoil, and issues with control, including refusing to share certain tasks.

## How do I protect my firm?

### Code of conduct

In 80 percent of the Canadian companies surveyed, code of conduct controls were used to deter fraud. Globally, this control resulted in a 56 percent reduction in the median loss and an 11-month reduction in detection.

### External audit

External audits of financial statements effectively prevent fraud. In Canada, 72 percent of companies use external audits to root out fraudulent activities. Globally, this control resulted in a 50 percent reduction in the median loss and a 12-month reduction in detection.

### Internal audits

In 71 percent of the Canadian cases, the internal audit department effectively monitored and deterred occupational fraud. Globally, this control resulted in a 46 percent reduction in the median loss and a 12-month reduction in detection.

Other common anti-fraud controls in Canada included the following:

- Employee support programs;
- Management certification of financial statements;
- Independent audit committee;
- Hotlines;
- External audit of internal controls over financial reporting;
- Fraud training for managers/executives;
- Fraud training for employees;
- Anti-fraud policy;
- Proactive data monitoring/analysis;
- Formal fraud risk assessments;
- Dedicated fraud department;
- Surprise audit;
- Job rotation/mandatory vacation;
- Rewards for whistle-blowers.

Globally, the above anti-fraud controls reduced the median loss of fraud, the strongest of the controls being employee support programs (33 percent

***Continued on page 25***



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# FRAUD CAN COST YOU: MIDDLE MARKET FINDINGS AND HOW TO RECOVER LOSSES

WRITTEN BY JEAN-CHARLES PLANTE

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reduction) and proactive data monitoring (58 percent reduction).. Furthermore, they resulted in a reduction in the time to detect fraud by between 6 months and 12 months.

Smaller companies may not have the means to dedicate an entire department to monitoring fraud internally, yet several of the above noted anti-fraud controls can be inexpensive.

## Minimize losses

Middle market and small firms can take steps to reduce the risk of fraud within their ranks. Minimize losses by maintaining policies and internal controls, including management review, surveillance and account reconciliation. These plus the previously highlighted activities will help to deter fraud as well as uncover it quickly. The longer a fraud goes unnoticed, the more money drains out of the company.

Other protective steps organizations can take include implementing an internal audit department, conducting fraud training, performing formal fraud risk assessments, and dedicating a department or team to the prevention of fraud. In the case where middle market businesses may not have the resources and capacity to create such a dedicated team internally, independent advisors can support the organization and report issues to management or an appointed senior employee.

## Recovering Losses

All firms may be able to recover losses if they have the appropriate insurance coverage and policy amounts. For example, an owner of a company may not be able to recover losses that he himself stole, but an owner may be able to recover losses from a

## fraudulent employee.

Some types of insurance coverage include: crime, employee dishonesty, fidelity, errors & omissions, cyber losses and theft. It is important to speak to a qualified insurance professional such as an independent insurance broker who can provide guidance on adequate coverage.

In addition to having the right type of coverage, it is also important to consider the amount of coverage. However, losses that exceed the maximum amount stated in the policy are not recoverable through insurance. Unfortunately, the cost of purchasing the additional amount of coverage would have been minimal over the long term and would have resulted in recovering significantly more losses. A preferred insurance advisor can support businesses in determining the appropriate amount of coverage.

In order to recover losses under an insurance policy, many insurers require a proof of loss form and a report quantifying the losses along with supporting documentation. As such, it is important to retain an experienced independent forensic accountant with industry experience and knowledge of insurance and claims who has assisted policyholders, insurers and insurance adjusters to determine and quantify the reasonable amount of losses that can be supportable for insurance or litigation purposes.

Jean-Charles Plante  
Director  
RSM Canada Consulting LP  
jc.plante@rsmcanada.com



# 2019 Past President's Night

**The Ottawa Chapter of the OIAA**

**Has invited you to Dinner and a Game!!**



**As a member of the OVAA we are extending you an invitation to this year's Past Presidents Night at the Canadian Tire Place. Cost of your attendance is only \$65 per person.**

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*When: Tuesday, March 26<sup>th</sup>, 2019*

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**\*\*\*PLEASE Register online or with RYAN REIS(by phone) PRIOR TO March 10<sup>th</sup>, 2019\*\*\***

# RESIDENTIAL OIL SPILLS A MESSY BUSINESS

WRITTEN BY DINU MATEI M.SC., P.ENG. CONSULTING FORENSIC ENGINEER

Residential fuel oil spills are a high-risk situation for all parties involved: the homeowner, fuel oil supplier, manufacturer of the oil tank, and seller of the fuel burning equipment, to name but a few. Residential oil spills

create a major disturbance in the home owner's life and can prove extremely costly. According to the IBC, the cost of cleanup after an oil spill is between \$250,000 and \$500,000, but it can even exceed \$1,000,000.



And of course, oil spills pose a significant threat to the environment.

When there is a leak from an oil tank installation, time is of the essence. There's a very short window of opportunity in which to document the site and the condition of the installation, and to collect all of the necessary information, so it's critical to have a sound

strategy in place. Because of the complexity of the claims, oil spills often involve many stakeholders, which increases the possibility that the scene and evidence may be compromised. In such a situation, the chances for a successful subrogation action against the responsible parties could be seriously jeopardized. From the moment you are notified of an oil spill, you have to act quickly to gather all of the appropriate experts to assist you on this claim, including a Forensic Engineer.

## WHAT IS A RESIDENTIAL FUEL OIL SPILL?

In short, a release of heating oil into the environment. This includes any kind of spill or leak from an oil storage tank, oil delivery line or other part of an oil heating system, such as the in-line filter and shut off valve. However, we will leave oil leaks from burners and furnaces for a future article.

## COMMON CAUSES OF SPILLS

There are a number of causes that can lead to an oil spill, including:

- Bottom wall perforation due to internal corrosion
- Installation deficiencies (incorrect slope, improper foundation, improperly secured tank)
- Improper, or lack of, annual maintenance
- Manufacturing defects (bad welds, protrusions around the outlet port)
- Freezing of water in the in-line fuel filter or fuel supply line
- Vent whistle malfunction (indoor installations)
- Corrosion of supporting legs or saddles; tank collapse
- Cross-threading of the in-line fuel filter
- Pinched gasket of the in-line fuel filter
- External corrosion
- Vehicular impact
- Objects dropped, or people stepping on the in-line filter, shut off valve, or supply line

*Continued on page 30*

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**\*\*Cost to rise to \$200 after February 28<sup>th</sup>, 2019\*\***

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# RESIDENTIAL OIL SPILLS A MESSY BUSINESS

WRITTEN BY DINU MATEI M.SC., P.ENG. CONSULTING FORENSIC ENGINEER

- Corrosion and wall perforation of abandoned underground fuel oil storage tanks

## CONSEQUENCES OF RESIDENTIAL FUEL OIL SPILLS



Similar to the causes of oil spills, the consequences are numerous and varied, with some being more common than others. The most pressing and farreaching is environmental contamination. Once oil seeps into the soil it can contaminate groundwater and eventually spread to other water sources, including creeks and lakes.

Another serious concern is property damage – applicable to both outdoor and indoor tanks. As fuel oil leaks out of the tank, it can contaminate materials it comes into contact with, such as wood, concrete, and drywall – all materials used in residential homes. In extreme situations, where the oil has contaminated the soil under the foundation, the entire house may need to be demolished, and the soil underneath may have to undergo remediation.

In the case of indoor installations, the leaked oil will also soak into fabrics and textiles it comes into contact with, rendering them a complete loss. Worse still, fuel oil vapour can spread throughout the home, causing adverse health effects to the people exposed to it. In one such instance, a homeowner was hospitalized with severe respiratory issues after spending the night capturing leaking oil from his indoor fuel oil tank.

There are, of course, also more unusual consequences. For example, a case where oil spilled from an above-ground fuel oil storage tank and contaminated a nearby cemetery. In order to commence remediation, an archeologist was needed and a massive search had to be conducted to locate the descendants of the deceased. But regardless of the cause and consequences, for home insurers, any oil spill recovery is a complicated and lengthy procedure.

## WHAT TO DO AFTER A RESIDENTIAL FUEL OIL SPILL



Oil spills are complex investigations involving a large number of parties (homeowners, insurance companies, adjusters, TSSA inspectors, fuel oil suppliers, remediation companies, engineers,

*Continued on page 31*

# RESIDENTIAL OIL SPILLS A MESSY BUSINESS

WRITTEN BY DINU MATEI M.SC., P.ENG. CONSULTING FORENSIC ENGINEER

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and most likely, lawyers). Therefore, it's important to have a plan in place so you know exactly what to do from the outset. It is paramount to know that in Ontario, the handling and storage of fuel oil is governed under the Technical Standards and Safety Act – Ontario Regulation 213/01 (Fuel Oil Regulation) – and currently administered under the CSA B139-15 Ontario Installation Code for Oil Burning Equipment by the Canadian Standards Association. Under provincial regulations, a person becoming aware of an oil spill must immediately report that spill to Ontario's Spills Action Centre (staffed 24/7; Toll-free: 1-800-268-6060).

If there is an immediate need to disturb the evidence beyond closing the shut off valve, installing a spill tray, placing absorbent material under the tank, or plugging the vent pipe, Ontario's Spills Action Centre needs to be informed that this is an emergency situation and an immediate telephone call should be made to the TSSA Fuel Safety Program (1-877-682-TSSA (8772)). Under no circumstances should the scene be altered before a TSSA inspector attends the site and provides approval for removing the evidence.

## HIRE A FORENSIC ENGINEER

Your next step should be to bring in a Forensic Engineer who specializes in oil spills to attend the scene, ideally before the site condition has been changed by the cleanup crew. In the meantime, ask the engineer's advice on what to document and what to preserve. From a legal point of view, it is paramount to obtain all relevant documents associated with the fuel oil installation from the homeowner.

This includes, but is not limited to, correspondence with the oil tank seller, invoice for the purchase

of the tank, installation certificate, inspection certificate(s), correspondence with the fuel oil supplier, and receipts for oil deliveries.

## TAKE LOTS OF PHOTOS



Until the TSSA inspector has attended and released the site/evidence, no one can tamper with or discard evidence, move or change the position of the tank. However, taking photos is not considered tampering with the evidence, and you should take as many as possible. Ask the homeowner to take photos before you attend the site, and once you arrive, make sure to capture the location of the tank and surrounding environment, as well as close-ups of the leak location, fittings, pipes, legs, underside, foundation and manufacturer label. A picture is worth a thousand words, and in cases where the tank has been removed before an engineer is

*Continued on page 32*

# RESIDENTIAL OIL SPILLS A MESSY BUSINESS

WRITTEN BY DINU MATEI M.SC., P.ENG. CONSULTING FORENSIC ENGINEER

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assigned to the claim, those pictures can also be worth a lot of money.

You never know what will be relevant to the investigation down the road. For instance, a nearby flowerbed could explain external corrosion of the tank; an improper foundation could explain why the tank tipped over; lack of protection from falling ice could explain why the shut off valve was cracked; and lack of protection from vehicular movement (if required) could explain why the tank was damaged when the area was snow plowed.

While it's obviously important to identify the cause of the failure, it can be even more important to identify any code violations that were present in the oil tank installation at the time of the loss. This can lead to liability against parties who should have seen the deficiencies and taken the appropriate steps to either correct them or condemn the installation. After all, a tank taken out of service can't leak.

## MAINTAIN CHAIN OF CUSTODY

It is very unlikely that the fuel oil installation (fuel oil tank) will be examined on site by all parties involved, so it's critical that you maintain chain of custody. Once the site is released by the TSSA, and following preliminary site examination, the tank will eventually be removed and sent to an off-site location, or independent laboratory, for any future joint destructive examination. It is recommended that the chain of custody document clearly indicate the date, the manufacturer and serial number of the fuel oil tank, as well as the names of people and companies who handled the tank after the incident. This is to expel any debate around

spoliation of evidence that may arise in the future.



## SUBROGATION STRATEGY

Your goal is to make sure that every dollar you spend on an oil spill claim is recoverable. Although there are many parties involved in an oil spill, it is important to know that one significant driving gear in the complex subrogation machine, and one that can help you by providing an unbiased opinion, is a qualified Forensic Engineer.

### DINU MATEI, M.Sc., P.Eng.

*Consulting Forensic Engineer*

Dinu is a licensed professional engineer and designated consulting engineer, specializing in metallurgical, materials and mechanical failure analysis. With more than 20 years of industry experience, Dinu has been involved in over 1,000 failure investigations of various metallic and non-metallic components, 23 projects leading to the development of new materials and processes, and is a qualified expert witness in Manitoba civil court.