

## Anne Eberhardt, CFE, CAMS Senior Director



### Contact

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### Education

- Brigham Young University, BS – Finance
- Brigham Young University Marriott School of Management, MBA

### Memberships & Affiliations

- Association of Certified Fraud Examiners (ACFE)
- American Bankruptcy Institute (ABI)
- Association of Certified Anti-Money Laundering Specialists (ACAMS)
- International Women's Insolvency & Restructuring Confederation (IWIRC)

Anne Eberhardt is a Senior Director in the New York office of Gavin/Solmonese. Proficient in Spanish, she is a versatile forensics and restructuring professional with more than twenty years of experience conducting investigations, resolving economic disputes, testing compliance, and building reporting systems.

She provides expert witness reporting and testimony in white collar and civil litigation matters, with expertise in the financial services, healthcare, telecommunications, retail, and extractive industries. Her clients have included top-tier financial institutions, global pharmaceutical and oil and gas companies, government agencies, and international non-governmental organizations.

Anne's career was forged during the collapse of the oil and gas industry and the accompanying savings and loan crisis. She has performed many of her projects in periods of extreme crisis, including within conflict zones. She frequently writes and speaks on topics of corporate governance, fraud, anti-corruption, and money laundering. She serves on the Budget and Fundraising Team for the Bosnian-Herzegovinian Film Festival of New York.

### Expert Testimony and Reports

- Expert Report and Trial Testimony, *The Patriot Group, LLC v. Steven C. Fustolo*, in the United States Bankruptcy Court for the District of Massachusetts, Adversary Proceeding No. 14-01193, May 12, 2016, and June 23, 2016. Follow-up testimony provided in *The Patriot Group, LLC v. Steven C. Fustolo*, No. 2010-00529F, Middlesex Superior Court, (Massachusetts) on May 18, 2018.
- Expert Report and Response, *Ann McCracken; Joan Farrell; Sarah Stillson; Kevin McCloskey; Christopher Trapatsos; and Kimberly Bailey, as individuals and as representatives of the classes v. Verisma Systems, Inc.; University of Rochester; Strong Memorial Hospital; and Highland Hospital*, in the United States District Court for the Western District of New York, No. 6:14-cv-06248-MAT-JWF, November 30, 2016 and August 14, 2020. Deposition testimony provided in October 2020.
- Expert Report *In Re: Charles A. Stanziale, Jr., Chapter 7 Trustee of Simplexity, LLC, et al. v. Sprint Corporation*, in the United States Bankruptcy Court for the District of Delaware, Adversary Proceeding No. 16-50739-KG, June 23, 2017; follow-up Declaration Report, July 14, 2017.
- Trial Testimony, *The People of the State of New York v. Robert DePalo, et al.* in the Supreme Court of the State of New York, July 9-10, 2018.

### Forensic Investigations and Litigation Support

- Performed an investigation of cash flows for a Latin American-based petroleum company to determine the cash flows provided by the parent entity to a subsidiary involved in U.S. bankruptcy proceedings. The project required the analysis of records for the previous twenty-five years, across several ownership structures and corporate accounting systems, all of which were recorded in Spanish. Assisted with the preparation of an expert report submitted to the bankruptcy court, which contributed to a long-sought settlement between the parties.
- Led a team of forensic accountants in one of the largest Foreign Corrupt Practices Act (FCPA) investigations on record. Analyzed hundreds of thousands of transactions of a Latin-American subsidiary of a global pharmaceutical company, most of which were in Spanish, and made presentations of findings to the client. Assisted defense counsel with the regulator's settlement negotiations.
- Provided assistance to the creditors' committee of a metals factory in Chapter 11 to determine the viability of a case for equitable subordination and/or equitable re-characterization. Led a document review of more than 8,000 non-electronically searchable files to construct a model to be used to determine the point of insolvency of the entity. Analyzed loan documents, transactions, and historical market data for evidence that the parent's cash infusions followed a pattern consistent with the injection of equity, not third-party lending.
- Analyzed cash flows in a collapsed real estate venture in New Jersey to determine whether and when a Ponzi scheme existed. Constructed a database extracted from multiple sources to trace cash movements between investors and the Ponzi suspect's dozens of operating accounts. Identified and segregated the Ponzi activity for an analysis that was used to settle litigation in the resulting bankruptcy proceedings.
- Performed a highly sensitive forensic investigation of a partner in a professional services firm who had embezzled millions of dollars over a four-year period of time. Gathered documents, traced cash flows, estimated the partner's asset values from incomplete records, and performed analyses on the

billing and time-keeping systems of the company's record-keeping applications. Prepared a case that was presented to law enforcement, which resulted in the criminal conviction.

- Provided ongoing assistance to counsel for more than five years in a partnership dispute involving the theft of tens of millions of dollars following the collapse of the commercial real estate markets in South Florida and Nevada. Compiled transactions from over 100 entities in more than 160 bank accounts and developed a platform for tracing cash to establish patterns of transfers used for fraudulent purposes. Advised counsel through several depositions of key individuals involved in perpetrating the fraud.
- Prepared a detailed analysis of cash flows and an expert report used in an adversary matter during the involuntary bankruptcy trial of a CPA. Analyzed records for dozens of bank accounts for the multiple business entities and personal accounts at stake in the matter. Provided expert testimony at the bankruptcy trial and a follow-up hearing in State court.
- Led an electronic document review effort of more than 300,000 e-mails during an investigation of a financial institution subject to a regulatory action involving breach of fiduciary duty. Prepared interview questions for individuals involved in the alleged wrongful activities. Analyzed accounting records to identify transactions associated with potential misconduct.
- Performed an investigation of transactions involving a fund of assets comprising hundreds of works of art. Analyzed the valuations performed at various reporting periods to establish whether the managing member had provided inflated valuations of the fund's assets. Assisted counsel with determining whether the fund inappropriately extended its term to the detriment of the investors.
- Analyzed cash transactions to determine cross-border flows between an American loan servicing company and its Canadian affiliate. Reviewed thousands of documents and analyzed purchase price workpapers to evaluate the reliability of the valuation methods used during the entity's bankruptcy proceedings.
- Provided assistance to counsel in numerous cases involving potential causes of action against management in investor- and creditor-led matters involving failed enterprises. Examined financial data to determine how company cash was used and from where it originated. Reviewed the underlying calculations of the estimates of the value of intangible assets to determine the validity of models and to assist in the determination of solvency at various points in time. When required, provided assistance to regulators investigating management malfeasance.
- Performed a cash tracing analysis for the legal team representing an individual indicted on more than twenty charges of securities fraud, grand larceny, money laundering, and criminal tax fraud. Compiled a database of tens of thousands of cash transactions held in more than 50 bank and brokerage accounts in the U.S. and the U.K.
- Provided assistance to a client involved in a partnership dispute. Analyzed transactions that depleted the client's equity position over the course of the three years of the partnership. Assisted counsel with achieving a settlement arrangement for their client.
- Led an investigation of financial records during a dispute involving several real estate property management partnerships in the metropolitan Washington, DC area. Reconstructed cash flows from original source documents obtained from third parties and computer forensic analysis, which demonstrated misuse of partnership funds.

- Reviewed thousands of e-mails and other electronic documents in Spanish for an FCPA investigation involving a U.S.-based healthcare entity with operations in South America. Translated key documents that were used by counsel to determine the strategy of the case.
- Managed an investigation of fraud and mishandling of restricted funds for an international non-governmental organization (NGO) in the northern regions of Pakistan. Supervised a team of Karachi-based accountants to perform interviews of employees and volunteers, trace cash payments, and develop a response to the allegations for the NGO's U.S.-based parent entity.
- Performed an investigation into the misuse of U.S. Government grants to a local branch of a national non-profit organization that provided relief to victims of Hurricanes Katrina and Rita.
- Led a multi-national team of forensic accountants investigating allegations of fraud in a whistleblower case involving an American-owned factory located in the Philippines.
- Conducted multiple investigations of alleged fraud on behalf of the Office of Inspector General of the Federal Government's grant administrator of university-sponsored research programs.
- Prepared a circumstantial case that led to the criminal conviction of the executive director of a local chapter of a national non-profit organization.
- Regularly provided FCPA due diligence for clients involved in potentially high-risk cross-border mergers and acquisitions.

### **Valuation, Compliance Testing, and Model Validation**

- Led the team that performed the annual valuation of several financial instruments the Federal Government acquired following the collapse of the mortgage market. Brought together numerous stakeholders to achieve consensus regarding the valuation techniques and results. Provided deposition testimony as a fact witness in connection with one of the disputes involving the agreements covering the Government's arrangement.
- Assisted a lender with developing and negotiating a restructured debt repayment plan with its borrower. Analyzed expected revenue from a stream of government contracts, evaluated the reasonableness of the borrower's forecasts, and developed a repayment schedule that was feasible given the borrower's distressed condition. Prepared an estimate of the impairment to the loan that the lender used in its audited financial statements.
- Prepared rate cases on behalf of a provider of emergency medical transportation services and defended them before its governing State regulatory body.
- Conducted an internal audit of the collateral management system for the over-the-counter derivatives book of a global investment bank.
- Supervised an evaluation of contracts for embedded derivatives during the accounting restatement of an entity specializing in the design, packaging, and sale of mortgage-backed securities. Identified issues supported by the relevant documents for five fiscal years and presented findings in several memoranda circulated to senior leadership. Prepared instructional materials to train the client's employees to continue the analysis in-house.

- Evaluated the post-conservatorship collateral management practices and risk management strategies of an entity that specializes in the packaging of residential mortgage-backed securities, in support of the entity's regulator.
- Conducted an evaluation of the risk assessment models used by a global securities and investment banking group.
- Performed a validation exercise of the anti-money laundering risk assessment tool used by an international bank. Modeled selected algorithms to determine the adequacy of the tool at flagging high risk transactions and identified deficiencies in the calibration and performance of the tool.
- Following the collapse of the credit markets, performed an analysis of a portfolio of 10,000 distressed loans in a due diligence matter for a top-tier financial institution.
- Led a team of accountants to review contracts to determine the consolidation requirements of limited partnerships organized under the Low-Income Housing Tax Credit program during the accounting restatement of a real estate financing company.
- Assisted with the preparation of an expert report challenging the valuation of complex financial instruments in an accountants' liability matter related to a failed hedge fund.
- Developed and maintained a database to manage the assets of four failed thrift institutions for an entity serving as the state-appointed receiver/liquidator. Created reporting templates to provide periodic updates regarding the status of collections, real estate dispositions, and litigation matters.
- Reviewed the valuation techniques of the opposing party's methodology in a litigation matter involving commercial mortgage-backed securities and presented an alternative analysis, which resulted in the withdrawal of the opposition's expert report.
- Designed and performed a compliance review for an international NGO to test the procedural boundaries constructed to protect the tax-exempt status of the organization's charitable foundation from the activities of its sister political advocacy entity.
- Performed an analysis of the dues structure of a State Bar Association and made recommendations to its governing body, the State Supreme Court, for dues increases and a one-time assessment to help return the Association to solvency.

### **Accounting**

- Member of the Budget and Fundraising Team, providing the treasurer and financial reporting functions for the Bosnian-Herzegovinian Film Festival of New York.
- Employed for two years as a leasehold property accountant for a publicly-held oil and gas exploration and production company based in Houston, Texas.
- Provided accounting services to a start-up oil and gas exploration and production company in Houston, Texas. Managed cash flow in a distressed environment and built structures for reporting financial results to management.

**Capacity Strengthening**

- Managed the Kurdistan Regional Government component of a multi-million-dollar project in Iraq, under a contract with the U.S. Department of Defense. Led a team of specialists to develop guidelines and implement procurement procedures in accordance with international standards of transparency and accountability. Organized training events to develop the capacity of Kurdish Government planning and procurement officials. Negotiated with the security vendor to provide round-the-clock armed protection, transportation, and living accommodations in support of the expatriate team based in Erbil. Traveled regularly to the International Zone for client meetings and to coordinate with the Baghdad-based core team.
- Performed a three-month onsite study of a USAID-funded grant-making program located in Ukraine to assess the internal control structures and potential for fraud. Performed a follow-up review for the organization's field offices located in Serbia, Hungary, and Poland and prepared a grant-making manual for high-risk program offices in Central Asia and the Middle East.

**Publications and Appearances**

- "Lessons Learned in Crafting Compliance Programs from the Largest FCPA Case in History," *The FCPA Report*, July 11, 2012 (co-author)
- "Compliance Issues that Should Keep Directors Up at Night," *Inside Counsel*, September 8, 2015
- "How to Educate Top Management on the Importance of Anti-Corruption Compliance," *The FCPA Report*, March 23, 2016
- "How Financial Statement Fraud is Committed: Five Mini Case Studies," *ABF Journal*, July/August 2017, Vol. 15, No. 5
- "Fifty Shades of Valuation," Moderator for the Panel Discussion at the ABI Mid-Atlantic Bankruptcy Workshop, August 2017
- "The History and Enforcement of Anti-Money Laundering Laws in the U.S.," *Claims Journal*, January 8, 2018
- "What is the Current State of Anti-Bribery and Corruption Prosecution?" *Corporate Compliance Insights*, March 23, 2018
- Guest appearance on *Knowledge @Wharton*, April 4, 2018, on the topic of tax evasion and money laundering
- "The History of FCPA Enforcement, Part 1," *Corporate Compliance Insights*, July 3, 2018
- "The History of FCPA Enforcement, Part 2," *Corporate Compliance Insights*, July 5, 2018
- "Recent FCPA Cases: Lessons for Compliance Personnel," *Corporate Compliance Insights*, October 17, 2018
- "The Good, the Bad, and the Ugly: Accounting Basics for Bankruptcy Professionals," Panelist at the Rocky Mountain ABI Conference, January 2019
- "What's Next for Compliance Enforcement?" *Corporate Compliance Insights*, October 2, 2019
- "The Role of the Expert Witness in Claims Litigation Matters," Panelist at the Norton Institutes Seminar, January 2020
- "The Controversy Surrounding the Corporate Transparency Act of 2019," *Corporate Compliance Insights*, May 22, 2020
- "Conserving Conservatorship," *AIRA Journal*, Vol. 34 No. 1 – 2021
- "Emerging SPAC Trends and Other Creative Financing Structure," Moderator for the Panel Discussion at the ABI Mid-Atlantic Bankruptcy Workshop, August 2021
- "Crime in Bankruptcy," Moderator for the Panel Discussion at the ABI Mid-Atlantic Bankruptcy Workshop, August 2022
- "Forensic Accounting and Asset Recovery in an Electronic World," Panelist at the IWIRC at the Shore Conference, February 2023

- “The Context of the Continuing Conservatorships of Fannie Mae and Freddie Mac,” *ABI Journal*, July 2023
- “Crime and Cross-Border Forensics,” Moderator for the Panel Discussion at the ABI Cross-Border Insolvency Program, October 2023
- “Understanding the Current Crisis in Commercial Real Estate,” Moderator for the Panel Discussion at the AIRA Plan of Reorganization Conference, November 2023
- “Financially Distressed De-SPAC Companies,” Panelist at the ABI Winter Leadership Conference, December 2023