



September 2025

Weaving forensic analysis with legal strategies to win an international trade fraud case

Amidst the flurry of White House announcements about imposing tariffs on a growing list of countries, an environment is evolving that's increasingly susceptible to fraud. International trade fraud encompasses a broad range of illicit activities affecting global commerce including no-delivery scams, counterfeiting, money laundering, document forgeries, and import tariff fraud. These schemes are escalating globally as advances in technology help bad actors exploit the complexities of international trade and supply chains.

CRA Insights sat down with CRA Vice President Lisa Dane and Mike Wolak, partner at Troutman Pepper Locke, to discuss the evolving global trade landscape and accompanying opportunities for committing fraud. Lisa and Mike also discussed CRA and Troutman's recent partnership on a fraud case and how their collaboration revealed a multi-country supply chain scheme.

You had a complicated cross-border fraud case in a federal court involving the distribution of frozen foods. Can you tell us about the background and what your rationale was for reaching out to CRA?

Mike Wolak: Complicated indeed! Our firm represented a Hong Kong-based food distributor who contracted with a Miami-based trading company and its Poland-based broker to obtain close to \$30 million worth of frozen chicken from a Brazilian supplier. When we realized that this was not just a breach of contract case for failure to deliver the purchased products but appeared to be a massive Ponzi-scheme by the Miami-based company and its Polish broker, we recommended that the client engage CRA to assist our efforts in prosecuting the claims.

Partnering with CRA's Investigations practice, we were able to successfully move to compel critical information and documents from the defendants, even before we obtained a judgment against them. Once we obtained the judgment, we further leveraged CRA's expertise in asset tracing and forensic accounting to identify potentially attachable assets to satisfy the judgment. The CRA team was also instrumental in our post-judgment discovery efforts, including depositions.

What was the launching-off point of CRA's investigation?

Lisa Dane: After digesting the facts in the complaint, we began our investigation into the backgrounds of the primary defendants. This included research of corporate registry filings, real property and vehicle ownership records, social media posts, litigation, criminal records, tax liens and media coverage. Our research identified over two dozen entities, the majority of which were set up in Florida by a convicted felon acting as the registered agent. Most of the entities were shells with no actual business operations and nominally headed by friends or family members of the defendants. We also uncovered several recently acquired, over-levered parcels of property in Florida owned in the names of the shell entities. We determined the defendants also had purchased several high-end luxury vehicles including Ferraris, Lamborghinis, and Porsches, and they actively posted online about their race car team activities.

A few primary themes surfaced from our research. First, the defendants clearly had no experience or interest in the frozen food business and were entirely focused on funding a car-racing team and flipping properties. Secondly, our documentation of the chronology of events was important since many of the shell entities were formed within days or weeks of each other, and often within mere days of receiving our client's stolen funds.

How did CRA's investigative findings impact your legal strategy?

Mike Wolak: That is what I admire about this collaboration. It did not begin once we obtained the judgment against the defendants, but early on with our amended complaint and during fact discovery. We utilized CRA's investigative findings and wove them into legal arguments, court filings, and discovery requests, including an amended complaint to bolster our claims, interrogatories and document requests. Our successful motion to compel ultimately allowed us to obtain banking records, financial statements, and general ledgers that CRA forensically analyzed, which revealed that the destination of the funds was the defendants, their family members, and sham entities they controlled. This ultimately helped us obtain our judgment against the defendants.

Can you explain the nuts and bolts of CRA's forensic analysis of financial records and how that was melded with your investigative findings?

Lisa Dane: Receiving the financial records and bank account statements enabled us to expand our investigative research and forensic analysis and fill in the remainder of the picture for Mike regarding the fraud scheme. We needed to concretely determine how much money was missing and where it ended up. Our data analytics colleagues at CRA converted hundreds of pages of financial transactions into a usable format for analysis. This facilitated our forensic accounting team's mandate to quantify and trace the millions of dollars sent by our client to the defendants, who in turn had funnelled it to various entities and related individuals.

We then utilized our investigative resources to conduct deeper research on the payees—company names, individual names and associated addresses—which revealed additional related parties involved in the scheme. We then visually mapped out the web of interconnected people and companies and then layered the flow of stolen funds on top of that.

How did the forensic analysis aid the litigation narrative?

Mike Wolak: This was a very complex case because we needed to have a theme and narrative for the Court showing that this was an international fraud scheme where you needed to follow the money trail. This is why collaboration with CRA from the early stages was so important to identifying those themes and narratives; obtaining evidence in discovery to support those themes and narratives; and ultimately convincing the Court to rule in our client's favor throughout the case until we secured a \$25 million judgment.

How did you help integrate your findings with Counsel's legal strategy?

Lisa Dane: Looking at the facts, data and research results from different angles is the magic formula here. Attorneys, forensic accountants and investigators look at the same mountain of information on a case through a slightly different lens, and each may "see" something that the others may not notice—from a new address on a bank statement that then ties to a previously unknown shell company, to a pattern that emerges in a review of financial transactions, or a contradictory statement in a deposition that allows the lawyers to present new facts. The collaboration of complementary skill sets, along with continuous communication with counsel, is critical to informing the legal strategy since each viewpoint and finding adds value to the case and allows attorneys to weave together an argument that is more complete, more compelling to a judge or jury, and ideally results in a better outcome for the client.

For more information on this topic or to discuss factors relevant to your investigation, please contact:

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