FRAUD: A BED-ROCK OF DISHONESTY-WORLD VIEW

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Abstract:
Purpose: The contention of this study is to highlight the magnitude effect of fraud perpetration (world over) on the parental sovereign nation/organization as the victim of circumstance, to determine the effects on stakeholders value and the general public, to recommend a lasting solution that can aid in curbing further attempts by the fraud managers, that will put them in a tight corner against any form of dishonest act.
Methodology/Approach: Data collection was based on periodicals, Newspapers and CBN guidelines. A close contact with the affected institutions/parastatals were completely non and void due to inaccessibility to the stakeholders of the institutions. Structured questionnaire was disseminated to the highly interested public, numbering one hundred and twenty (120), who were keenly absorbed in the team of research topic. One-line discussions were applied to closely related friends and well-known individuals on the subject matter at length. Literature review was empirically utilized in the study.
Findings: Fraud, absolutely is the bed rock of dishonesty, which begets, unpatriotism. This category of people dismiss morality as unnecessary pre-requisite for virtuous life. To them the end justifies the means, thy are usually unscrupulous and opportunist in their endeavor to emeses wealth. Wealth by all practical wisdom is the subject matter. In the "Banana Government", they do not fear evil nor respect the legal framework of the sovereign system in which they live and operate. They dominate the **corridor of power**. They are the **"Killer searching for the killer"**. They operate in an environment of unequal instability and dubious to the core. To them the economy can bread to death and the masses of the public can go to hell.
Originality/Value: This paper virtually highlights the down-trend of an economy in the threshold of debacled society, battered by evils of dishonest and unpatriotic individuals in the public sector financial institutions as well as governmental sector of the economy. This paper under estimate the evils perpetrated by these **"Power lords"** in the corridor of power, in which the scorching effect of their act is being perceived by the poor masses seeking for a better governance of the day.
Research Implication: Data procurement through the source evidence has been the main stumbling block in this research work, therefore, the researcher decided to compliment the data collection through the opinion of the closely related insiders and the public responses on the subject matter. Financial constraint, apart from limitations in data procurement has equally influenced the progress of the work adversely.

Key Words: Corridor of power, unpatriotism, Bedrock of dishonesty, "Banana Government", "Killer searching for the killer", evils, legal framework.

Introduction:

Fraud is said to be the bedrock of dishonesty. According to "Oxford Advanced Learner's Dictionary of Current English", "fraud is a criminal deception, using false representation to gain unjust advantage. In advanced nations, fraud is considered as a criminal act liable to severe adverse reciprocation from the judicial authority. In 3rd world Nations, the response to fraud seems to be in nutshell, though, it actually recognize fraud as crime which it promoted through the promulgation of decrees on fraud and other fraud related matters such as the recovery of public fund Decree 18, 1994, Bank and money laundering Decree 3, 1995, Federal intelligence investigation Bureau (FIIB), Economic and Financial Crime Commission (EFCC). It has been realized by the public that these fraud prevention institutions promulgated by the government of the day are illusionary, "**Post-Office-Socialism**" and their efforts towards curbing fraud has been a **"window dressing"** challenge.

According to Adekanye (1993), fraud is an act of falsifying documents as a means of inflicting injury to another person, the government and the public in general.

World View:

Fraud is a choice of dilemma, and the man's history from inception to date has been in eroding trend as a result of dishonesty in his endeavor to emerse wealth and perpetrate injustice and inflict injury to his fellow mankind. History cannot be sacrificed for what it is. A specific reminder of time are cases pertinent to fraud in various magnitude in the history of man.

- **Leeds Estate Building and Investment Co Versus Shepherd (1887)**

Facts of the Case: The company was formed in 1862 for the purpose of dealing in loans and lending money on mortgages. The Articles of Association of the company provided that directors were to get bonus in proportion to the dividends paid to the shareholders and that both dividends and bonuses were not to be paid except out of profits earned by the company. Articles further provided that the auditor was to state whether in his opinion the B/S was full and fair balance sheet properly drawn up so as to exhibit a true and correct view of the state of the company's affairs.

Company went into liquidation since it could not earn any profit during the whole of its existence except in one year (1876). Directors by crediting certain false and fictitious items of income to the profit and loss account, not only showed that the company made profits but declared dividends to the shareholders and bonus to the directors. They did not care to see the Articles of Association and certified the payment of dividend and bonus out of capital to be correct. They had also certified the false and misleading balance sheet of the company.

Company brought an action against its directors, manger and auditor for negligence in certifying payment of dividends and bonuses which were ***ultra veres*** the provisions of the Articles of Association. It was also alleged that the auditor was liable for gross negligence because he had omitted to examine the Articles of Association of the company. Auditor tried to defend himself by pleading that:

- He was unaware of the existence of the Articles of Association and that;
- The action was time barred by the Law of Limitation.

Auditor was held liable to pay damages. His first defence was rejected by the court and it was held that ignorance of the provisions of Articles of Association will not relieve an auditor from his responsibility under the statute.

In the course of his judgment, the presiding judge, Sterling J. said, "the auditors duty is not to confine himself merely to verify the arithmetical accuracy of the B/S, but to enquire into its substantial accuracy, and to ascertain whether it is properly drawn up so as to contain a true and correct representation of the state of the company's affairs. It is no excuse that the auditor had not seen the Articles, when he knew of their existence".

So far as the 2nd point of defence was concerned, some relief was granted to the auditor and the court decided that the statute of limitation operated in favor of the auditor, so that his liability was limited to the dividends paid within six years of the commencement of action. In this way, an auditor, who was found guilty of negligence was allowed the benefits of the statute of limitation.

Conclusion:

An auditor who fails to satisfy himself that transactions are ultra-vires, the auditor is negligent. He shall be held liable, if he fails to report the facts to the members in all those cases where the balance sheet does not disclose the true position. **(Misfeasance)**

- **The Irish Woolen Co. Ltd Versus Tyson and other (1900)**

Facts of the Case: The accounts of the company were falsified:

- By over valuing stock in trade and book debts and;
- By understating the trade liabilities to the extent that the book showed a false profit of **£4095.** This amounted to payment of dividend out of capital. Auditors were charged for negligence in the

performance of their work. It was also pointed out that the auditor got most of the work done by his assistants and cared to do very little work himself.

Company brought about this suit against the auditors holding them liable for negligence as he was not able to detect the frauds pointed out. Court did not hold the auditor liable for any charge except that of the understatement of the liabilities. It held that it was not part of an auditor's duty to take stock. He has acted quite competently in accepting the certifications of the responsible officers of the firm with regard to valuation of stock. There was nothing to arouse his suspicion **(Kingston Cotton Mills Company Case).** Moreover, an auditor is entitled to get his work done by instants. Court, thus, did not find any ground for holding the auditor liable for negligence. However, with regard to the third charge of understatement of liabilities, auditor was held liable for negligence in the performance of his duties for he did not make an attempt to get statement of accounts from the creditors. Had he done so and compared the creditors' statements with the ledger balances he would have surely detected the fraud. Court held the auditor liable and asked him to pay damages to the company.

The presiding judge – Holmes, L.H. in the course of his judgment observed: Mr. Kavans seems to have done little of the actual work himself and the evidence varies as to the nature of the supervision which he gave to it: the investigation of the books he deputed to his assistants and it must be on the faith of their representation that he certified the balance sheets. I presume this course is not unusual and that an accountant with a large business is not supposed to do everything himself. The auditor is bound to give reasonable care and skill but this can also be exercised by his deputy ……………… there is no doubt that both supervision and carrying over of invoices would have been detected if the auditor had called for the creditors' statements of account upon which payment was ordered, and compared them with the ledger.

- **Author E. Green and Co. Versus the Central Advance and Discount Corporation Ltd (1920) United Kingdom**

Facts of the Case: The defendant company had been carrying on the business of money – lending. The plaintiff (auditors) had been conducting audit of the accounts of the company for many years in the past. Auditor had accepted the figures of bad debts as supplied by the Board of Directors, who had considerably under-estimated the amount. Out of a total of about **£19,000** of the irrecoverable debts many of them had become statue barred but even then, they were not written off as bad.

The suit was filed by the auditors in order to claim the fees due to them. But the defendant company made a counter-claim for damages caused to it as a result of the negligence of the auditors in not pointing out the time barred debts contained in the schedule of debtors. This resulted in inflating the profits and consequent overpayment of commission to the Managing Director, calculated on the basis of net profits. The defence of the plaintiff to the counter-claim of the defendant was that although some of the debts had become time barred, they did not point out this fact as from past experience they had found that the customers had been paying even the time barred debts. The defence of the auditors was not considered to be satisfactory by the court and damages were awarded to the company. It was pointed out that on no occasion did the auditor refer to the state of the book debts in his report to the members. Auditors are liable for negligence in performing their duties in not pointing out to the shareholders regarding the insufficient provision for bad and doubtful debts.

Justice: Sherman observed that if there were circumstances which seemed to call for enquiry, the auditor must make the proper enquiry, and if he did not take the proper steps to have the matter examined, he did not fulfill the duty he owed to the company as one of its officers. In the course of his judgment, his lordship remarked:

"The duty of the auditors was quite clear as to statutory duties. They had to make a report, and state whether in their opinion the balance sheet was properly drawn up so as to afford a true account or statement of the company's affairs. It was said by the company and he acceded to the view that the auditors belonged to a profession, a respected profession, that they were not only to be honest, but were bound to exercise an extraordinary skill, but there was a standard ………... The case for the auditor was that from time to time there were meetings of the directors to consider a certain list of bad debts which was prepared by the managing director……….and that they were entitled to rely upon the directors and that they had no reason to suspect Mr. Foot (Manager of the company). The auditors said that when the list of bad debts came back to them to certify the balance sheet, Mr. Foot had struck out some of the people they had put in respect of bad debts……………….

"This satisfied my mind that the auditors deliberately concealed that from the shareholders which they had communicated to the directors. It would be difficult to say this was not a breach of duty. Auditors must not be made liable for not tracking out ingenious and carefully laid scheme of fraud, when there is nothing to arouse their suspicion and when those frauds are perpetrated by tried servants of the company and are undetected for years by the directors. So to hold would make the position of an auditor intolerable".

- **Hudson Versus Official Liquidator, Debradum Mussourie Electric Tramway Co. Ltd. (1929) India**

Facts of the Case: The Board of Directors had misappropriated the funds of the company. Auditors did not care to examine the relevant documents and therefore, failed to discover misappropriations. He did not call for necessary explanations in those cases where his suspicion was aroused. He passed some of the illegal payments as correct. On a suit being brought by the official liquidator, the auditor was held liable for willful misconduct and default. In the course of judgment the court observed:

"Under the Act, if the auditor pass over illegal payment without demanding explanations and the facts disclose that there was deliberate abstention from performing plain and manifest acts and there was absolute duty cast upon them to enquire into the illegal payments and think over the real meaning of dubious transactions, they are guilty of misfeasance unless there is anything to the contrary in the Article of Association". Held that if illegal payments are passed over by the auditors without enquiry or asking for explanation, auditors shall be liable for misfeasance.

- **Rex Versus Kylsant and others – 1931**

OR

Royal Mail Steam Packet Company Case

Facts of the Case: Royal mail steam Packet Company was a chartered company. This company continued to earn considerable profits up to 1920 but afterwards the earnings fell away considerably. Directors tried to conceal the poor earnings of the company by crediting a number of special items, which related to the previous years to be profit and loss account of the current year. These special items related to "Reserves for taxation" which was no longer required and the distribution of the accumulated profits of the subsidiaries.

Further, the Co. had been drawing upon its secret reserves from 1921 to 1927. All these special credits had been used by the Co. in declaring dividends both on preference and ordinary share capital. All losses were thus concealed by utilizing the secret reserves. Shareholders were kept in the dark. They were given a false picture of the company (window dressing mechanism). They were made to believe that the Co. was running profitably.

Proceedings for the criminal prosecution of the chairman of the Board of Directors (Lord Kylsant) and auditor (Mr. Moreland) were instituted for issuing false annual reports to the shareholders in order to deceive them. From the side of the crown it was contended that the action of the chairman of the Board of Directors and the auditor constituted "a deliberate false representation to the shareholders that the Co. was making profits, when in fact, it was making trading loss". Auditors were criminally prosecuted for aiding and abetting Lord Kylsant in publishing certain annual reports of the Co., knowing them to be false, and that such annual reports concealed from the shareholders the true position of the company, with intent to deceive.

The contention of the auditor was that he need not disclose the fact of the utilization of the secret reserve in order to augment the profits of the company during its poor years. Secret reserves are created just for that they may be utilized in lean years. Had he disclosed the fact of the utilization of secret reserves, the very objective of creating secret reserves would have been frustrated.

Both the accused were acquitted of their criminal liability. However, auditor, who had committed a breach of duty in connection with the accounts of the company, was held liable under civil liabilities to pay damages for the dividends which were paid out of capital and Lord Kylsant was found guilty and convicted of a separate charge of publishing a false prospectus for issue of fresh debenture stock.

The judgment given in this case has been very important since it tried to remove all doubts about the delicate position of the auditor with regard to secret reserves. **Justice Wright** in the course of his judgment observed:

"We have heard a great deal about the keeping of secret reserves, and heard a great deal about the commercial troubles, which may flow from that practice…. But there may be very great evils if those who have the control and management of the companies and who control and manage companies for the benefit of the shareholders who entrust their moneys to companies, have very large portions of the company's assets left in the secret disposition of the managing authority …... If it is a practice which is being followed ……by many concerns of the highest standing. On the other hand, it may be the subject of almost intolerable abuse. Such a system may be used to cover up negligences, irregularities and almost breach of faith… There may be some justification for the maintenance of an undisclosed or secret serve, if the fact that there was such a reserve, was clearly specified some where in the report so that shareholders could know..."

"The law does not impose an impossible burden on auditors, it does not make them insurers, it does not require of them skill and vigilance which is beyond their power; but it does require them to report..."

"They (the Auditors) have to give certificates as to …the balance sheet. Now if the account on which dividends were being paid, or …the expenses were being met, were being fed by undisclosed reserves, it seemed very difficult to see how an Auditor could discharge his duty of giving a true and correct view of the state of the company's affairs without drawing attention to that fact which was vitally important".

"An Auditor is not connected with questions of policy, and it is not for him to say whether a dividend is properly or improperly declared, but, if he sees in the accounts there is something to which he ought to draw the attention of the shareholders, it is his duty to do so, and either he should not sign the certificate at all or he should sign it with some qualifications such as the circumstance require".

"…A very heavy or a very long protracted utilization of secret reserves, in order to keep the company going, is a serious matter, which quite apart from anything, I have said about the general law, ought to be disclosed, on any view of the position, of the company."

- **Armitage Versus Brewer and Knott (1932)**

Facts of the Case: The company had only one chief clerk **Miss. Harwood**, who was in charge of all books, vouchers, wages and other documents. By misusing her position, she had embezzled large sums of money by misappropriating petty cash and manipulating wage sheets. Company had appointed auditors to conduct continuous and detailed audit of the books. They were charged of negligence by the company because they had failed to exercise reasonable care and skill in examining wages sheets. They did not conduct detailed audit.

Auditors tried to defend themselves by pleading that the frauds could not have been detected by the exercise of reasonable care and skill. But the court rejected the defense of the auditors and held them liable for the damages caused to the company due to the embezzlement of money by Miss Harwood because it was thought that had the auditors carried a detailed checking of the accounts and books, the work for which they were employed, they would have surely detected the fraud. There was an undertaking on the part of the auditors to audit the books fairly, completely and the circumstances of the fraud were such that the auditor should have been put upon enquiry. In the course of his judgment, the judge observed:

"The documents at the beginning set out that the defendants would vouch all payments with receipts in petty cash, check calculations of all wage sheets, check totals of wage sheets into wages book and check weekly totals with other detailed provisions, and **accountants** undertaking duties of that kind could not be heard to excuse themselves on the ground that this or that was a small matter, the undertook rigorous check, and they did so because that was what the client wanted ……… It was doubtless true that to detect the fraud, minute examination of a large number of documents was required, but that was exactly what the defendants (auditor) undertook to do ……… As to the suggestion that some things were too trivial to notice, auditors differed greatly as to scope and special instructions. A 6s I.d had been altered to 16s. I.d. That was passed in what purported to be a meticulous examination. The most casual inspection would detect the discrepancy on the voucher; both figures were there ……………… It was the duty of the auditor to bring that 10s. which was indicative not only of fraud but of forgery, at once to the notice of the principal. That one piece of paper raised a grave suspicion. It was of critical importance. It was by little things like that, forgeries and frauds were found out".

"It was the duty of auditors to be suspicious, that is what they were there for. If every body was honest and careful there would be no need for auditors………."

- **The Blue Band Navigation Co. Ltd (Trustee of) Versus Price Waterhouse & Co. (1934) United Kingdom**

Facts of the Case: The current account of Mr. Wittal, a director, showed a debit balance of **£25,000** in the books of the company. He tried to conceal this amount by transferring it in the name of some fictitious person. Auditors asked for the reasons of such transfer, but he refused to tell them anything about this transfer on the ground that it was "extremely confidential". The Auditors without being satisfied, persisted in making enquiries to know the reasons for the transfer, the director was, however, able to satisfy them by giving his own personal guarantee for the debt. But the company, subsequently could not recover anything in respect of this debt.

A suit was brought against the Auditor, charging him of negligence for having passed the debt in the balance sheet without any of his comments. While holding the Auditor not liable for negligence, the court observed:

"Auditors were not negligent in the discharge of their duty in as much as they honestly believed the debt to be a good one, even though such a debt turned out to be a bad one". "Auditor is neither a guarantor nor insurer. He is not concerned with the wisdom or unwisdom of an investment. He is in no way responsible for the management. His responsibilities are confined to a reasonable precaution, making proper enquiries, coming to an honest opinion and reporting it to the shareholders".

- **S.P Catterson & Sons Ltd (1937)**

Facts of the Case: The cashier of the company carried out certain frauds over a period of four years because of deficient system of internal control. Frauds were detected three years latter before the company went into liquidation. Auditor has been emphasizing upon the Board the need for the reorganization of the office. Auditor continued to work until liquidation of the company even after defalcations were found out.

Liquidator charged the auditor of negligence and misfeasance. It was alleged that because the auditor had not provided for an efficient system of checking counter receipts, the employees had misappropriated the funds of the company.

While holding the auditor not liable for negligence, the judge held:

The primary responsibility for the accounts of a company is with those who are in control of the company, that is to say the directors……. It is for the directors to manage the business in the way in which they think best in all the circumstances of the case, including in the management of the business, the system of accounting to be employed……..

The so-called system…… was also known to the directors and had been known to them for years …….. It is clear that he did not want an alteration in the system ……and……that…the directors preferred for some reason or another to continue the system as it was ……. I am not prepared to hold…that there was any duty upon the auditors to insist upon that system being changed…… It is not their business to tell the directors how to carry on and conduct their accounting system; they make their recommendations and if they are not acceded to, the responsibility is not the auditors' responsibility but it is the responsibility of the directors".

"Auditor is not liable for defalcation by a dishonest employee, if such defalcation is the result of bad system of accounting, to which the attention of the directors had been drawn.

- **Enron-World Tremor 2001 – Neo-Supra-Insider Fraud Scandal**

Facts of the Case: Arthur Anderson, one of the world's five leading accounting firms, was Enron's auditing firm. This means that Anderson's job was to check that the company's accounts were a fair reflection of what was really going on. As such, Anderson should have been the first line of defense in the case of any fraud or deception. Arguments about conflict of interest had been thrown at Anderson since it acted as both auditors and consultants to Enron. The company earned huge fees from its audit work for Enron and from related work as consulates to the same company.

When the scandal broke out, the US government began to investigate the company's affairs. Anderson's Chief Auditor for Enron, David Duncan, ordered the shredding of thousands of documents that might prove compromising. That was after the Securities and Exchange Commission (SEC) had ordered an investigation into the speculative actions of Enron.

Duncan said he was acting on an e-mail from Nancy Temple, a layer at Anderson, but Temple denied giving such advice.

While Anderson fired Duncan, its Chief executive officer, Joseph Bernardino, insisted that the firm did not act improperly and could not have detected fraud. Bernardino conceded that an error of judgment was made in shredding documents, but he still protected Anderson's innocence.

Credit Rating Agencies: Credit rating agencies like Moody's. standard and Poor's and Fitch IBCA, whose main duty is to provide guidance to investors on a borrowers' creditworthiness ie inform investors how risky buying a company's bond might be, failed to spot any problems with Enron until the company was nearly bankrupt, only downgrading its bonds on 28 Nov. 2001.

Enron had been facing dreadful financial tremor since Oct and Nov. 2001, but rating agencies only downgraded its bonds to "junk" status on Nov. 28. 2001. This caused critics to wonder if they (rating agencies) were doing their jobs correctly.

Investment Banks: Several investment banks were involved in Enron's collapse. Credit Suisse First Boston (CSFB) played a central role in creating the controversial partnerships that Enron used to hold billions of dollars of unprofitable assets and that eventually contributed to its bankruptcy. Enron depended heavily on a team within CSFB, known as the "**Structured Product Group**", to engineer the partnerships. The team worked closely with Andrew Fastow, Enron's ex-chief financial officer, and his deputies to develop partnerships that shielded unprofitable Enron assets. CSFB devised three partnerships known as Osprey, Marlin and Firefly, which held a total of $4 billion in assets. The team was part of US firm Donaldson Lufkin & Jenrette (DLJ), which merged with CSFB in 2000.

CSFB has defended its role in advising Enron and handed over documents relating to its work with Enron to congressional investigators. A CSFB spokesman insisted that Enron officials understood the partnership structures they worked on with CSFB.

- Another US investment bank, JP Morgan Chase, was involved in the Enron's tragedy. The investment bank was a major lender to Enron and the bankrupt telecom group Global Crossing. Loan losses related to Enron contributed to the bank's 2001 fourth-quarter loss around $332 million and JP Morgan was forced to put aside another $150 millions in case of future loan defaults.

JP Morgan was under probe by federal prosecutors as to whether the bank could have helped Enron disguise loans as part of its normal trading. JP Morgan is known to be one of the investment banks that helped Enron set up the "Special Purpose Entitles", which were at the heart of the company's collapse. Questions were raised regarding trades between Enron and an offshore company set up by Chase Manhattan Bank, which is part of JP Morgan Chase. The offshore entity, Mahonia, traded with Enron, paying it in advance for future delivery of oil and gas. The resources it used came from JP Morgan. On Dec. 2001, Enron's total global investment exposure to major financial institutions amounted to about $4 billion.

Investigators and Regulators Involved: The US financial markets are supposed to be the best regulated in the world, with the Securities and Exchange Commission (SEC) enforcing strict rules on disclosure to protect investors, besides the presence of private agencies that monitor companies. The SEC's main role is to ensure that investors have accurate information about companies and that companies do not deceive investors or manipulate the market price of their shares. The SEC has strong investigation powers and can fine companies for violations or failing to co-operate.

- The SEC's investigation into Enron took of in Oct. 2001 based on allegations regarding the mismanagement, mistreatment of shareholders and potential frauds, the SEC was accused of failing to notice earlier irregularities in Enron's accounts and failed to scrutinize the company's reports in detail since 1997. The SEC defended its actions by saying that Enron's accounts were impenetrable to regulators, since its core business, energy trading, was only lightly regulated by another set of government agencies, which exampled it from many reporting requirements.

The Commodity Futures Trading Commission (CFTC), the regulator of futures and derivatives markets was supposed to regulated Enron. Originally most futures trading were related to physical commodities like the price of wheat or pigs, but in recent years, much of the trading has been in financial commodities like exchange rates.

- Enron pioneered the trading of energy contracts for the supply of gas and electricity which became the center piece of its business. The main problem is that CFTC believed in "light-touch" regulation. In 1993, the CFTC exempted such energy trade from its regulatory overview, a ruling that was confirmed in the 2000, Commodity Futures Modernization Act. The chair of the CFTC at the time was **Wendy Gramm, the wife of prominent Texas Republican Senator Phil Gramm**. She later joined the board of Enron.

Another regulatory body that oversees the energy market is the Federal Energy Regulation Commission (FERC), which was established to oversee the US domestic energy markets in 1977 and is part of the US Dept. of Energy. The FERC's main duty is to ensure that fair prices are paid for the transmission of gas, oil and electricity across the boundaries, a job that gained importance as the deregulation of energy markets gathered momentum. The FERC exempted trading in electricity contracts from its reporting requirements after lobbying from Enron in 1990's. It also failed to closely examine reports filed by Enron. Its current chairman then was **Pat Wood**, a close associate of President Bush. Wood was the chief energy regulator for the state of Texas before taking up the post. Press reports suggest that Enron's boss **Lay** suggested the appointment to the Bush administration.

- The US Dept. of Justice investigated allegations of fraud and stock manipulation on recommendation of Securities and Exchange Commission (SEC).

Enron executives ought to have been prosecuted for concealing evidence. Other changes that were investigated include defrauding Enron's pension fund.

- In March 2000, Andersen announced that it was in talks to sell itself to one of its major rivals, Ernest and Young or Deloitte, Touché and Tohmatsu or KPMG. Talks about a possible merger or takeover started after it became clear to Andersen that the Dept. of Justice and Federal prosecutors were of the opinion of criminal indictment against them for shredding documents relating to the investigation.

- On June 15, 2000, a federal jury convicted Arthur Andersen of obstruction of justice for impeding an investigation by Securities regulators into the financial debacle of Enron. The decision was based on altered internal memo that showed the accounting firm interfering with the government's investigation into Enron's collapse. The memo written by David Duncan, the lead partner on the Enron account, was about a news release Enron was planning to issue regarding its 3rd – quarter earnings. The release was characterized by certain losses Enron was reporting as "non-recurring" at the time, several Andersen experts, including Mr. Duncan, had concluded that such a representation was misleading. Andersen did not approve that earnings release and Enron went along and issued it, then Anderson set about to change things to suit or alter documents to keep that away from the SEC. The guilty verdict against Arthur Anderson – on a charge of shredding of thousands of records and deletion of tens of thousands of e-mail messages was ultimately reached because of the removal of a few words from a single memorandum.

Lessons from Enron

- Conflict of interest between auditorial function and consultational function must be distinguished.
- Securitization and other legitimate structured finance deals have to be disclosed with sufficient depth and detail to adequately inform sophisticated investors.
- Material conflicts of interest should be avoided by the management, because the investing public rely on their judgment.
- Companies should routinely change auditors to prevent Enron-style collapse.
- Corporate codes of conduct must be seriously and carefully observed.

Ex- Delta State Governor Versus EFCC 2010 (Nigeria)

Facts of the Case: Hunted at home and abroad, chief James Onanefe Ibori (the duo) must prove beyond reasonable doubts his claims that he did not steal monies from Delta State Coffers during his eight (8) years reign as executive governor nor launder money to United Kingdom, failure to win his case in both Nigeria and UK could earn him severe penalties, including jail term.

The development in the case showed that the ex-governor and his team of defense required much more than legal exploits to extricate him from the fraud charges of stealing funds worth $290 million US dollars (£196 Million) British pounds in Nigeria and of money laundering in the United Kingdom. Albeit, relief came his way following his release on bail after the May 12 arrest and detention in Dubai, United Arab Emirate at the instance of the UK Interpol warrant, not a few would dispute the fact that the fraud charges could Mar Iboris political ambition. His legal defense, suffered a set back following the conviction of this two associates – Ms. Christine Ibori-Ibie and Ms Udoamaka Onuigbo, each to five years jail term by South Wark Crown Court in London.

The sentence of Ibori’s only surviving sister and his ex-confidant, Udoamaka to five years imprisonment by Judge Christopher Hardy came on the heels of separate ruling on June 1st and 2nd by the same court that found the duo guilty of charges of money laundering for the ex-Delta governor. Mrs. Ibori-Ibie was found guilty of a nine-court charges of money laundering, mortgage and wire fraud, while Onuigbo was convicted for only money laundering in a Case No. 120087009. The 3rd accused – Mrs. Bimpe Pogoson, Ibori’s ex-personal assistant was discharged and acquitted by the jury.

The sentences did not come as surprise to many Nigerians, according to “The Economy findings, following reports both the EFCC and the London Metropolitan Police that facilitated his arrest and detention in Dubai, desperately seeking for his extradition to face the law. It was learnt the duo, went underground after he was declared wanted by the EFCC on April 13, 2010 over a petition by Delta State Elders and Stakeholders forum (DSESF). The matter took a dramatic twist when attempts by a combined team of security forces and EFCC contended to nab him at Oghara-his home town prove to be abortive as his loyalties mobilized youths and ex-militants to prevent his arrest. The security team which consist of the Assistant Inspector General of Police (AIG), Commissioner of Police (CP) and some EFCC Staff as well as Joint Military Task Force (JIF), could not gain entrance to Oghara. Days after the futile manhunt, it was learnt the duo reportedly fleet the country through Escravos – River. The duo has been on ex-convict charge against him by Mr. Good news Agbi and Anthony Alabi to quash his 2nd team governorship bid. After many trails and legal battle in the supreme courts, Ibori was cleared of the charges, though the judgment was highly disputed.

The ex-Delta governor who played a vital role in the electoral victory of Late President Umaru Musa Yar’Adua and the incumbent Governor of Delta State, Emmanuel Uduaghan, was entangled with the law when the EFCC Chieftain (M.N. Ribadu) led team to arrest on Dec. 12, 2007 and subsequently charged to court on the allegation of gross financial misappropriation while in the office as a governor. But his strong political link in the Yar' Adua's government provided him a soft landing and therefore escape the wrath. The reprieval came when the Asaba Federal High Court led by Justice Marcel Awokulehini on Dec. 17, 2009, quashed the 170 charges brought against him by the EFCC.

To ensure that the personalities like the duo did not escape the wrath of law, the EFCC chairman, Mrs. Farida Waziir forwarded a petition to the Chief Justice of Nigeria – Justice Aloysins Katsina – Alu and the President of the court of Appeal – Justice Isa Salami, over the delay by some judges in handling the cases of fraud against the ex-governors. She wrote; "The governor's cases are not moving fast, it is frustrating. They bring all sorts of technicalities and challenge the jurisdiction of the commission to try them".

The ex-governor who had his assets valued at **#17** million ($35 million) frozen by a court in UK in 2007 is still standing trials in UK over fraud perpetration and money laundering charges.

DATA EXHIBITION: - WORLD-VIEW

S/N	Case	Year	Facts of the Case
1.	Leeds Estate Building & Inv't Co. Vs Shepherd	1887	Misfeasance
2.	London & Gen. Bank Ltd	1895	Misfeasance
3.	Le Lievre & Dannis Vs Gould	1895	Negligence
4.	Kingston Cotton Mill Co. Ltd	1896	Misfeasance
5.	Wild & Others Vs Cape & Dalgeish	1897	Negligence
6.	The Western Countries Steam Bakeries & Milling Co. Ltd	1897	Misfeasance
7.	Martin Vs Isitt	1898	Fraud
8.	Mixham & Others Vs Grant	1899	Div. out of Capital
9.	Joseph Hargreaves Ltd	1900	Mispresentation of accounts.
10.	Dumbells Banking Co. Ltd	1900	Falsification
11.	The Irish Woolen Co. Ltd Vs Tyson & others	1900	Falsification
12.	Boaler Vs Watchmaker's Alliance and Earnest Good's Stores Ltd	1903	Div. out of Capital
13.	London Oil Storage Co. Ltd Vs Sear-Hasluck & Co.	1904	Negligence
14.	Towers Vs African Tug Co. Ltd	1904	Div. out of Capital
15.	Mead Vs Ball, Baker & Co.	1911	Falsification
16.	The Liverpool & Wigon Supply Associate Ltd	1907	Misfeasance
17.	Calne Gas Co. Vs Curtis	1918	Fraud
18.	Arthur E. Green & Co. Vs The Central Advance & Discount Corporation Ltd	1920	Negligence
19.	Farrows Bank Ltd	1921	Falsification
20.	City Equitable Five Insurance Co. Ltd	1922	Misfeasance
21.	Union Bank of Allahabad	1925	Manipulation of Account
22.	Apfel's Trustee Vs Aman, Dexter & Co.	1926	Misappropriation
23.	Hudson Vs Official Liquidator, Dehradun Mussorie Electric Tramway Co. Ltd	1929	Misappropriation
24.	Rex Vs Kylsant & Others	1931	Misappropriation
25.	Ultramares Corporation Vs Touche Nivene & Co.	1931	Negligence
26.	Armitage Vs Brewer & Knott	1932	Misappropriation
27.	Westminster Road Construction & Engineering Co. Ltd	1932	Misfeasance
28.	Karachi Bank Ltd Vs Sewaram	1932	Falsification
29.	Allen Graig & Co. (London Ltd)	1943	Misfeasance
30.	The Blue Bank Navigation Co Ltd (Trustee of) Vs	1934	Manipulation of Account

	Price Water House & Co.		
31.	Pendlebury Ltd Vs Ellis Green & Co.	1936	Misfeasance
32.	Leech Vs Stoks Bros & Pin (Irish case)	1937	Defalcation by Cashier
33	S.P. Catterson & Sons Ltd	1937	Defalcation
34.	Hinds, Musgrave & Steven	1950	Misleading Facts.
35.	Controller of Insurance Vs H.C. Das	1957	Negligence
36.	Institute of Chartered Accountants Vs Rajaram	1960	Negligence
37.	Hedley Byrne & Co. Ltd Vs Hetter & Co Partners Ltd.	1963	Negligence
38.	Ultramarines Corporation Versus Touche Niven and Co.	1963	Negligence
39.	Thomas Gerrand & Sons Ltd	1867	Falsification
40.	Watergate Scandal	1972	Falsification
41.	Enron – World Tremor	2001	Falsification of Documents
42.	Cadbury Nig. Ltd Scandal	2006	Falsification Accounts'
43.	Ex-Delta State Governor Vs EFCC	2010	Money Laundering

General Overview:

- Fraud is a financial conduct, unhealthy practice that can ruin the economy of any magnitude to zero-base.
- Generally perpetrated by those in the corridor of power.
- It is a bed-rock of dishonesty, therefore, exhibited by dishonest individuals in the key areas of management.
- There should be accorded to it a severe adverse reward for the perpetrators, which should range from life imprisonment above and the perpetrators wealth should be confiscated including his legitimate wealth. This will act as a deterrent factor and eye-opener, if implemented world over.

References:

Dayal .S. (1988), Auditing- Theory and Practice, 7th Edn. SBD Enterprises, 4074-75, Nai Sarak, Delhi. India.

Aggarwal and Varma M.M (1988), Practical Auditing, Educational Publishers, Post Box 1489, 4093, Nai Sarak, Delhi-India.

Medwell Journal of Scientific Research Publishing Company (2010) Volume 5. Issue 6.

Awake, July 22, 2004: Protect your-self from fraud.

Business Day (2010) June 15.