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A Qualitative Study of the Blame Game Hypothesis

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# Private Investigations of White-Collar Crime Suspicions: A Qualitative Study of the Blame Game Hypothesis

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## ABSTRACT

The activity of private investigations by fraud examiners is a business of lawyers, auditors and other professionals who investigate suspicions of financial crime by white-collar criminals. This article presents results from an empirical study of investigation reports. The available sample consists of 28 reports written mostly by auditing firms such as Deloitte, Ernst & Young and PwC. The blame game can occur at two stages in a private investigation. First, the mandate formulated by a client may point investigators in a specific direction. Next, investigators sometimes suffer from a tunnel view of predetermined opinions. In the sample of 28 investigations reports, more than half of them involve potential blame game victims.

*Keywords:* Financial crime; fraud examination; empirical study; blame game; private investigations; white-collar criminals.

## BIOGRAPHY

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# **Private Investigations of White-Collar Crime Suspicions: A Qualitative Study of the Blame Game Hypothesis**

## **Introduction**

Financial crime investigation is a growing business area for law firms, auditing firms, consulting firms and other professional services firms. Financial crime specialists in these firms are investigating suspicions of corruption, insider trading, embezzlement, tax evasion and other kinds of financial crime. Their clients are organizations wanting to investigate facts, causes and responsibilities for incidents, negative events and general misconduct. Financial crime specialists apply intelligence, investigation, examination, analysis and hypotheses to establish facts and causes. They perform fact findings, causality studies, change studies and suspect identifications (Machen and Richards, 2004; Morgan and Nix, 2003; Wells, 2003).

The purpose of this article is to present results from an exploratory study of private investigations by fraud examiners in Norway. Specifically, the purpose of this article is to present results from a study of investigation reports produced by law firms, auditing firms and other firms for clients in both the private and public sector to evaluate the blame game hypothesis (Eberly et al., 2011; Lee and Robinson, 2000; Shepherd et al., 2011).

This research is important, as the business of private investigations is both challenging to and supportive of police work. It is challenging to police work, as evidence can be harmed and prosecution of criminal offences can be carried out by private actors rather than public authorities. A private investigator can potentially challenge the rule of law by taking on all three roles of police investigator, public prosecutor, and court judge. In this perspective, there is a danger of privatization of crime settlement between the community and the criminal.

On the other hand, private investigations can support police work by confirming or disconfirming suspicions of financial crime. Private and public organizations pay the bills

from professional service firms to establish the facts. Police work is thus supported both in terms of evidence collection and resource allocation.

The blame game hypothesis argues that the main threat to justice from private investigations lies in: i) the blame game occurring when the client – who pays for the work – points the investigator in a specific direction, and ii) the blame game occurring when the investigator only has one hypothesis about causality for a negative event.

## **White-Collar Criminals**

A white-collar criminal is typically a member of the privileged socioeconomic class in society (Sutherland, 1940, 1949), who behaves illegally (Hansen, 2009) in non-violent acts committed for financial gain (Brightman, 2009; Bucy et al., 2009). The criminal is a person of respectability, who commits crime in a professional setting, where criminal activities are concealed and disguised in organizational work (Benson and Simpson, 2009; Bookman, 2009) by law-abiding behavior (Abadinsky, 2007). The criminal has power and influence (Kempa, 2010; Podgor, 2009), and enjoys trust from others in privileged networks (Pickett and Pickett, 2002).

Furthermore, the criminal is usually independent and irresponsible, dishonest and antisocial (Collins and Schmidt, 1993; Listwan et al., 2010), and lacks integrity and social conscience (Price and Norris, 2009). The offender is likely to exhibit narcissistic behavior (McKay et al., 2010; Ouimet, 2009, 2010) and psychopathic traits (Ragatz et al., 2012). The criminal belongs to the elite and is often wealthy and higher educated (Heath, 2008). The criminal may be subject to strain (Langton and Piquero, 2007; Piquero et al., 2010) and have low self-control (Gottfredsson and Hirschi, 1990). The offender has legitimate access to the location in which the crime is committed, and the offender's actions have a superficial appearance of legitimacy (Benson and Simpson, 2009).

Finally, the white-collar criminal does not consider own actions as crime (Dhami, 2007; Siponen and Vance, 2010) and has no guilt feeling (Stadler and Benson, 2012). When the criminal is detected, often media coverage follows. The criminal has resources to hire a top white-collar attorney (Weissmann and Block, 2010). White-collar criminals are sentenced differently and possibly milder than street criminals (Maddan et al., 2012; Schoepfer et al., 2007; Stadler et al., 2013), and there is a substantial gender gap (Robb, 2006; Simpson et al., 2012; Steffensmeier et al., 2013).

## **Private Fraud Investigations**

When an organization wants to investigate facts, causes and responsibilities for an event, where there is suspicion of white-collar crime, the investigation can be carried out by fraud examiners. A private investigation can comprise elements of intelligence work, detective work and analytic work, as we know it from police work. Characteristics that can be attributed to private investigations include a serious and unusual event, an extra-ordinary examination to find out what happened or why it did not happen, develop explanations, and suggest actions towards individuals and changes in systems and practices.

Fraud examination as intelligence is systematic and goal-oriented collection of data, which is transformed and processed according to a determined approach to uncover suspects' capacities, dispositions and purpose, so as to improve disclosure and clarification. Risk-based techniques can be applied to get an overview of departments, groups and individuals, and how they act. Intelligence can also be defined as the result of the collection and assessment of information about potential fraud and potential suspects by default, to evaluate and draw conclusions about the risk situation, point out potential problems and identify potential criminal activity with the intent to pursue the matter.

Fraud examination as investigation is targeted at collection of information to confirm or disconfirm an action or omission of action, and work to prove both guilt and innocence. Fraud examiners need to prepare evidence and documents so that they appropriately can serve as a basis for managerial assessment of the case. Investigation is about to seek, to collect, and to secure evidence that substantiates the merits in its true context, so that the accused's or suspect's guilt as well as innocence is evaluated.

Fraud examination as analysis is the process of breaking down a complex topic or subject to smaller parts to improve understanding and insight. Analysis means to create meaning out of data by processing, interpreting, reorganizing and seeking a structure from the gathered material. To analyze is to ask questions; what, where, how, who, when, which and why. What has happened? Where did it happen? How has it happened? Who may have done what? When did it happen? Which sequence of events is most likely? Why did it happen? How can such events be prevented in the future?

## **Need for Private Investigations**

Recent years have seen an increasing use of investigation in terms of the assessment of financial irregularities. This inquiry form – which primarily takes place in public and private companies – aims to uncover failing internal controls and any financial irregularities such as corruption, embezzlement, tax evasion and other forms of economic crime. Such investigations are sometimes conducted as part of the ordinary or extraordinary audit, or as separate studies conducted by private law firms, accounting firms, consulting firms or other kinds of professional services firms. The investigation examines internal affairs of a business or relationships between entities. The results of an investigation are presented in an examination report. An examination report's purpose is to help shed light and insight into a complex matter, which is controversial in some ways.

Most businesses experience from time to time incidents and negative events. Normally such incidents are handled by internally checking what might have happened, then try to establish the facts, before measures are taken to correct the situation. In some cases, however, organizations find that there is a need to hire third parties to carry out inquiries, for example because special expertise is required or complete independence has to be secured. The client gets in contact with external resources that are known and recommended. A mandate for the examination is developed, which describes what events the client wants to get examined, what questions the client wants to get answered, what reviews the client want to be made, and what hypotheses the client wants to get tested. The mandate defines a time limit applicable to the conduct of the mission. In addition, a budget is agreed upon between client and examiner, especially when there is an external fraud examiner hired by a client organization.

Wells (2003) argued that formal education in the fraud examination field is new and limited, and Anders (2006) suggests that certified fraud examiners should provide free resources to general public. Certification of fraud examiners was created in response to the demand for expertise in fraud prevention and detection (Morgan and Nix, 2003). Fraud examiners in the US can have varying backgrounds. It is not only lawyers, auditors and consultants who work as private investigators. Sociologists and criminologists can also take on tasks as detectives. Examples are mentioned by Kennedy (2013), who writes about forensic sociology and criminology. Fraud examiners provide a broad range of services to businesses and governmental agencies as either employees or independent consultants (ACFE, 2008). A fraud examiner may assist in a fraud investigation by procuring evidence, taking statements, and writing reports (Machen and Richards, 2004). Within the broad category of fraud examiners are forensic accountants who specialize in a unique brand of accounting that departs from the traditional methods employed in the accounting field (Machen and Richards, 2004).

## **Blame Game Hypothesis**

The market for private financial crime investigations by fraud examiners has grown in Norway in recent years. Several reasons can be found for this growth. First, compliance by business organizations has become an important issue, especially for corporations trading their stocks on stock exchanges both domestically and abroad. Detecting and preventing financial crime has thus become critical. Second, suspicions of financial crime generally and white-collar crime in particular will harm business reputation, making it imperative to find out what actually happened. Third, Norwegian police does often not have the capacity and competence to investigate complicated business irregularities. Fourth, corporate social responsibility has become an issue on the board agenda in many organizations, where ethical guidelines, anti-bribery activities and other crime-related topics are of increasing importance. Finally, innocent yet suspected individuals, especially when exposed in the media, deserve a fair investigation to prove their innocence.

However, the blame game hypothesis suggests that suspected individuals do not necessarily become subject to a fair investigation by private examiners and financial crime specialists. In police investigations, it is equally important to prove innocence as to prove guilt. In the charter for Norwegian criminal investigations, it is stated that police officers should put just as much effort into proving innocence as into proving guilt. Even when victims and others expect public prosecution, only individuals where police investigations have found sufficient evidence, will be prosecuted in court.

This may be different in private investigations. Financial crime specialists claim to have found the facts and the responsible person(s) for a negative event or incident. They may not have practiced an open mind. They may have been pointed in a specific direction by the client, and they may have only one lead which was to be verified in the investigation. The

client pays sometimes for a desired result. The client defines a mandate, and the investigation has to be carried out according to the mandate. To make a contribution in the investigation report, investigators have to describe some findings related to facts and causes.

There are two steps of looking for causal explanations in private investigations. The first step is concerned with the mandate, where investigative focus is defined. The second step is concerned with findings, where potential suspects are identified. Often, it can be perceived as a blame game by individuals who are suspected of financial crime. Investigators are told by suspects: "You should not blame me for what happened!"

Research on organizational justice and social accounts focuses on how explanations of negative events are publicly communicated to others. Explanations affect outcomes such as trust in the organization, feelings of anger, dissatisfaction, frustration, and stress. Suspects find it unfair, especially when suspicions develop into more or less grounded accusations. Of course, this can happen in police investigations as well.

Lack of causal accounts increase disapproval ratings of the harm done by placing the blame for harmful acts on others. For example, by attributing corruption to an executive in the organization as a rotten apple, the suspect will feel betrayed by other executives who, in his opinion, belong to the rotten apple basket.

External attributions place the cause of a negative event on external factors, absolving the account giver and investigation client from personal responsibility. However, unstable attributions suggest that the cause of the negative event is unlikely to persist over time, and as such mitigate the severity of the predicament. Uncontrollable attributions suggest that the cause of the event is not within the control of the attributor, further removing any blame or responsibility for the unjust act from the account giver (Lee and Robinson, 2000).

The reasons for private investigations include lack of facts and lack of accountability. Nobody will blame oneself for the negative event. The account giver, the private investigator, absolves

others from the blame and responsibility for the negative event. Even in cases of self-blame, investigations are required to ensure that the self-blame is justified. Self-blame is attributing a negative event to one's behavior or disposition (Lee and Robinson, 2000).

In a principal-agent perspective, attributions for negative events may deflect blame away from the real perpetrators. Investigators are motivated to assume power and to project control over causal relationships. This motivation to appear in control might lead the account giver to use internal and controllable attributions in their accounts. Such motivation might also lead the investigator to use controllable attributions in their accounts by deflecting blame. To blame others is simply attractive when a negative event has occurred.

The blame game includes not only internal and external attributions. Also relations can be blamed. Eberly et al. (2011) found that an employee does not solely blame her own abilities and skills for the negative event, nor does she attribute blame solely to her supervisor. Instead, she attributes the failure to the poor interaction she had with her supervisor – a feature of their relationship. Furthermore, the employee may blame being passed over a promotion on a lack of connections with key constituents in the organization or on low network centrality. In the blame game, relational attribution is problematic, as investigators will find it inconvenient to blame an individual as self in relation to other. Responsibility for a negative event is assigned to an individual or individuals, and not to a relationship or relationships.

Shepherd et al. (2011) argue that the building blocks of an informed culture are encouraging members to report errors and near misses; to apportion blame justly when something goes wrong; and to flexibly and swiftly learn by reconfiguring assumptions, frameworks, and actions. However, to protect themselves from criticism, executives and other individuals in an organization often engage in impression management that deflects blame to others.

The blame game can be explained in terms of negative events that are attributed to individuals who account givers would like to blame. People have a tendency to make sense of events by

acting as naïve psychologists. When confronted with events, people seek to determine their causes. For example, couples in marriages sometimes play the blame game by determining the other spouse as the cause. Causality in terms of cause-and-effect relationships seems easy to conclude when events occur.

The blame game hypothesis can be derived from attribution theory (Eberly et al., 2011) as well as behavioral decision making theory, which posits that decision makers are predictably biased by the interaction of the context and specific cognitive mechanisms (Hammond et al., 1998; Kahnemann, 2011). Behavioral decision making has identified an array of cognitive mechanisms that may disturb investigators' judgment. A bias can occur among private investigators based on client mandate and available resources in fraud investigations, where anchoring of suspicion can be misplaced. Furthermore, the primacy effect is a tendency for the first items presented in a series to be remembered better or more easily, while affirmation bias means to interpret information in a way consistent with existing beliefs. If the client has strong beliefs in one way or the other, this will manifest itself both in the mandate and in expectations. Similarly, the tunnel view sometimes experienced in police investigations imply that detectives go for the light at the end of the tunnel, rather than to look at what is outside the tunnel.

## **Research Method**

Private investigations in Norway are carried out by auditing firms such as BDO, Deloitte, Ernst & Young, KPMG, and PwC, as well as by law firms such as Kvale, Lynx and Wiersholm. Fraud examiners in these firms are typically trained as auditors, lawyers and police detectives. In a country of five million people, there are about one hundred partners and associates in these firms who have fraud investigations as their main occupation. In addition,

larger banks, insurance firms, oil companies and other organizations have internal investigation departments.

This research is about criminal offences, not civil cases. An estimated ten private investigations become publicly known in Norway per year. Out of this number, the current research was able to obtain twenty-eight investigation reports from recent years. Access to most investigation reports was denied by the investigation contractor, the client, where typically the investigation took place. Based on the accessed investigation reports, this article attempts to identify some characteristics of investigation reports listed in Table 1.

First in Table 1, the case name is mentioned. Adecco is a business firm, Ahus is a public hospital, while Briskeby is a football stadium. Eckbo is a family foundation, Fadderbarna is a non-government organization for children care, Forsvaret is the Army, while Furuheim is a church foundation running homes for elderly. Next in the table, literature reference to investigation reports is listed, using the investigating firm as reference. Suspicion causing the investigation is listed in the next column. Finally, the number of pages in the investigation report is listed.

Making private investigation reports publicly known – as those listed in the table – serves a number of important purposes. Firstly, whistle-blowers receive the required recognition they deserve, and future whistle-blowers can observe that whistle-blowing matters. Next, published investigations can have a preventive effect on potential white-collar criminals and also make white-collar criminals terminate their criminal activities. Publishing enables practical focus and attention to morale and ethics, where it becomes visible what is acceptable and what is not. Publishing increases the extent of organizational transparency. Publishing enables learning by other organizations that could have ended up in the same situation. When corruption scandals such as the one involving global fertilizer Yara was in the media for weeks and months, the public expects to learn about the truth. Publication can generally lead

to new insights about causes of financial crime, and thereby increase awareness among decision makers in society. Finally, available investigation reports can help improve teaching and research at universities. Despite all these good reasons, most private investigations by fraud examiners lead to secrecy of reports.

#	Case	Investigator	Suspicion	Pages
1	Adecco <i>Nursing and cleaning services business</i>	Wiersholm (2011) law firm	Exploitation of work force in nursing home in terms of low wages and inhuman working hours	22
2	Ahus Public hospital	PwC (2013a) auditing firm	Buying expensive geographical information system services	15
3	Briskeby <i>Football stadium</i>	Lynx (2011) law firm	Over charging for construction work at football stadium	267
4	Eckbo <i>Family foundation</i>	Dobrowen and Klepp (2009) law firm	Executives in ideal foundation for personal gain	119
5	Fadderbarna <i>NGO for children</i>	BDO (2011) auditing firm	Excessive administration costs in NGO	46
6	Forsvaret <i>Army</i>	Dalseide (2006)	Suspected corruption at procurement of information technology	184
7	Furuheim <i>Church foundation</i>	Dalane and Olsen (2006) law firm	Executives in church foundation for personal gain	164
8	Gassnova <i>Carbon capture and storage</i>	BDO (2013) auditing firm	Irregular procurement procedures by employees	27
9	Halden Ishall <i>Sports Ice Arena</i>	KPMG (2012) auditing firm	Excessive cost overrun in reconstruction	121
10	Halden kommune <i>City of Halden</i>	Gjørsv and Lund (2013)	Manager in department of planning and construction suspected of corruption	46
11	Kragerø Fjordbåtselskap <i>Shipping company</i>	Deloitte (2012)	Chief executive suspected of abuse of company funds	109
12	Langemyhr <i>Construction company</i>	PwC (2008a) auditing firm	Fraud by overbilling city work in hours	26
13	Lindeberg <i>Nursing home</i>	Kommune- revisjonen (2013)	Outside authority of personnel	92

		auditing service		
14	Lunde Group <i>Transportation company</i>	Bie (2012) law firm	Fraud and tax evasion for 30 million US dollars	86
15	Moskvaskolen <i>Norwegian school in Moskau</i>	Ernst & Young (2013) auditing firm	Private living expenses for dean covered by school	38
16	Norges Fotballforbund <i>Football association</i>	Lynx (2013) law firm	Football players changing clubs without clubs paying transfer money	48
17	Norsk Tipping <i>Public betting firm</i>	Deloitte (2010) auditing firm	CEO got his house and property maintained for free by the firm	61
18	Oslo Vei <i>Road construction company</i>	Kvale (2013) law firm	Chairman and CEO suspected of fraud after bankruptcy	53
19	Romerike Vannverk <i>Public water supply</i>	Distrikts-revisjonen (2007)	Chief executive suspected of corruption and embezzlement	555
20	Samferdselsetaten <i>Public transportation</i>	PwC (2007)	Suspicion of kickbacks from taxi owners for licenses	88
21	Spania <i>City of Oslo project in Spain</i>	PwC (2009) auditing firm	Abuse of public money spent on friends in Spain to build a local hospital for Norwegians	92
22	Stangeskovene <i>Private forest property</i>	Roscher and Berg (2013)	Board members controlling share sales	94
23	Sykehuset Innlandet <i>Hospital</i>	Davidson and Sandvik (2011)	Chief executive suspected of employment violations	15
24	Terra <i>Cities investing in bonds</i>	PwC (2008b) auditing firm	Outside authority of city management	52
25	Troms Kraft <i>Power supply company</i>	Nergaard (2013a-c) consulting firm	Accounting manipulation in subsidiary and illegal political party support	663
26	Tyrkia <i>City of Stavanger project for children</i>	PwC (2013b) auditing firm	Smuggling of adopted children out of Turkey financed by the city of Stavanger	14
27	Undervisningsbygg <i>School maintenance agency</i>	Kommune-revisjonen (2006a, 2006b) auditing service	Fraud by property managers in the City of Oslo	36
28	Verdibanken <i>Religious bank</i>	Wiersholm (2012) law firm	Investment fraud by bank executive	5

Table 1: Characteristics of reports from fraud examinations by private investigators

The data was collected by obtaining as many investigation reports as possible. Only a fraction of investigation reports were available. This is because it was unknown to the researchers where private investigations had taken place, as only investigations somehow mentioned in the media were recognizable to the researchers. Fraud examiners denied disclosure of where they had conducted investigations. Only those disclosed by journalists were known to the researchers. When approaching both clients and examiners to get access to investigation reports, we were very often denied insight. There are indeed many reasons why most investigation reports are kept a secret. Here are some of our findings from denial of insight into examination reports experienced by the researchers and confirmed in emails from denying parties:

1. *Damage*. The examination report contains business secrets which competitors might take advantage of, and thus cause damage to the business in its markets
2. *Confidentiality*. Lawyers are subject to confidentiality similar to medical doctors and psychologists.
3. *Suspicion*. Some investigation reports are very comprehensive and also describe circumstances for which the suspect was never prosecuted.
4. *Mistakes*. Some investigation reports have serious flaws, mistakes and shortcomings.
5. *Accusations*. The investigation report has a number of unfounded accusations against individual persons, who receive the blame, without being able to defend themselves.
6. *Unsuccessful*. The private investigation by fraud examiners was unsuccessful and a failure. Investigators did not find answers to the questions that initiated the inquiry, and they did not solve problems as expected by the client.
7. *Misconduct*. The private investigation was a failure, because investigators showed misconduct in their work.
8. *Unreadable*. Some private investigation reports are simply not readable.

9. *Disagreement.* Among owners of the organization, there might have been agreement to conduct a private investigation, but agreement can be lacking afterwards concerning publication of the investigation report.
10. *Termination.* Like all other kinds of projects, some investigation projects are terminated before completion. One reason for early termination is the lack of relevance to the organization. Another reason is that the project was premature. A third reason might be that the project went on in a completely wrong direction.
11. *Confidentiality.* Many individuals have provided valuable and sensitive information to private detectives under the assumption and with the promise that their information will never be disclosed.
12. *Evidence.* Sometimes, private investigations are followed by police investigations, which may or may not lead to prosecution and court ruling. If important evidence is leaked to the public, it can harm the court process, both for the prosecutor and for the defendant.
13. *Work.* There is too much work in filing a complaint or case to the police. The police always ask for more information, more documents and more meetings.

Our data collection procedure is biased towards investigations in the public sector, because misconduct in public sector becomes more easily accessible to investigative journalists than do misconduct in the private sector.

## **Research Findings**

The blame game hypothesis suggests that individuals are blamed with a negative event – in our context suspicion of white-collar crime – after private investigators have examined facts and causes. It is interesting and relevant to study the usefulness of applying the blame game hypothesis towards an understanding of allegations and subsequent outcomes. This might help

to address concerns about the potential for miscarriage of justice or even loss of job or reputation in such cases.

Table 2 lists individuals blamed, reasons for blame and blame consequence for individuals investigated by fraud examiners. Not all individuals in the list were victims of the blame game. Some were real suspects and later convicted to jail sentence because of financial crime. This was the case in Furuheim, Romerike and Undervisningsbygg. Of course, even a conviction is not necessarily an accurate indicator of guilt or innocence. Furthermore, we cannot draw conclusions on the motive of the accuser based on the outcome of the case.

Then there are six no-consequence cases. In one case, Ahus, there is no individual blamed, but rather a supplier. In all remaining cases, somebody got the blame. Seven of them had to leave their positions, even though there was no real proof or evidence. Thus, more than half of all individuals investigated by fraud examiners became potential victims of the blame game. Nothing was proven, there were no evidence, but media speculation and job loss for some, turned them into potential victims of the blame game hypothesis.

For example, Mr. Langemyhr was running a successful construction company until a customer – the city of Oslo – asked for a private investigation into some invoices. Langemyhr went bankrupt and the case against him was dismissed in court many years later.

#	Case	Individuals Blamed	Reasons for Blame	Blame Consequence
1	Adecco <i>Nursing and cleaning services business</i>	Manager for Adecco Health	Breaking work hour laws for employees	Manager left company
2	Ahus Public hospital	Supplier of digital map services	Over-charge of map services	Back-payment of map charges
3	Briskeby <i>Football stadium</i>	Managers of construction	Budget overruns in construction	Media blame of two managers
4	Eckbo <i>Family foundation</i>	Board members	Excessive fees and expenses	No consequence

5	Fadderbarna <i>NGO for children</i>	Management	Excessive administrative expenses	No consequence
6	Forsvaret <i>Army</i>	Managers at supplier Siemens	Corruption of army officials	Siemens executive left company
7	Furuheim <i>Church foundation</i>	Board members	Property arrangement for private gain	Board members convicted to jail sentence
8	Gassnova <i>Carbon capture and storage</i>	Nobody	Procurement	No consequence
9	Halden Ishall <i>Sports Ice Arena</i>	Manager of ice arena	Abuse of public money	No consequence
10	Halden kommune <i>City of Halden</i>	Manager of planning office	Corruption of planning officer	Planning manager in media
11	Kragerø Fjordbåtselskap <i>Shipping company</i>	Chief executive	Conflict with the board	Chief executive left company
12	Langemyhr <i>Construction company</i>	Manager of construction company	City officials felt over-charged by company	Prosecuted, but case dismissed
13	Lindeberg <i>Nursing home</i>	Manager	Breaking work hour laws for employees	No consequence
14	Lunde Group <i>Transportation company</i>	Owner	Bankruptcy	Owner prosecuted in court
15	Moskvaskolen <i>Norwegian school in Moskau</i>	Dean at school	Free lodging	Dean and vice dean
16	Norges Fotballforbund <i>Football association</i>	Club managers	No payment to previous clubs	No consequence
17	Norsk Tipping <i>Public betting firm</i>	President of company	Abuse of power for personal benefit	President left company
18	Oslo Vei <i>Road construction company</i>	Managers	Bankruptcy	Media blame of three managers
19	Romerike Vannverk <i>Public water supply</i>	President	Personal expenses paid by company	President convicted to jail sentence
20	Samferdselsetaten <i>Public transportation</i>	City manager for taxi licenses	Not equal opportunity for taxi owners	City manager left position
21	Spania	City manager for	Unsuccessful	City manager left

	<i>City of Oslo project in Spain</i>	elderly	investment in Spain	position
22	Stangeskovene <i>Private forest property</i>	Board members	Shares sold within family	Board members
23	Sykehuset Innlandet <i>Hospital</i>	Hospital executive	Tough management style	Media blame of executive
24	Terra <i>Cities investing in bonds</i>	City executive	Failed investments	Media blame of executive
25	Troms Kraft <i>Power supply company</i>	Subsidiary executive	Manipulation of accounting numbers	Executive under police investigation
26	Tyrkia <i>City of Stavanger project for children</i>	Private investigator	Smuggling children by corruption	Media blame of private investigator
27	Undervisningsbygg <i>School maintenance agency</i>	Contract manager	Corruption	Contract manager sentenced to jail
28	Verdibanken <i>Religious bank</i>	Managing director	Ignorance of board decisions	Managing director left company

*Table 2: Blame game after reports from fraud examinations by private investigators*

All twenty-eight investigation reports listed in the table were subject to case studies. Here are some examples to illustrate what the cases are about:

1. *Briskeby Stadion Case*. Two executives from private sector received the blame from fraud examiner Lynx (2011), while some identified bureaucrats and politicians are the really responsible persons. However, since politicians and bureaucrats initiated the investigation, they could point examiners in the direction of two construction executives.
2. *Kragerø Ferry Boat Case*. Deloitte (2012) investigated suspicions against the managing director, but it was all about a conflict between board members. The managing director had to leave.
3. *Langemyhr Case*. Mr. Langemyhr owned a successful construction company and did work for the City of Oslo. The City of Oslo hired PwC (2008a) to investigate whether

Langemyhr was charging too much. PwC concluded that there was substantial over-billing. The City of Oslo handed over the examination report to the police, which started its own investigation. The police decided to prosecute Langemyhr. In the district court of Oslo, the case was dismissed, because there was lack of evidence. Six years had then passed with massive press coverage and bankruptcy of his firm. Langemyhr sued the city, and he was reimbursed. The problem here was probably fraud examiners' too strong belief in over-charging by Langemyhr without evidence. In the mandate, the blame was already on suspicion of "overbilling, use of names as fictive hourly workers, theft of material" (PwC, 2008a: 3), and there was no mention of the city side of responsibility. PwC (2008a) confirmed all suspicions as facts in their report.

4. *Moskva School Case*. A Norwegian high school established a subsidiary in Moskva where they had an apartment, which the dean used for free, and other private expenses were covered by the school. However, board members were never investigated by Ernst & Young (2013), including politicians responsible for the project. In August 2014, the police dismissed the case, but in the meantime the school dean lost his job because investigators from Ernst & Young (2013: 52) had recommended the year before that "employee consequences for individuals" should be implemented and "police reporting" should take place.
5. *Norsk Tipping Case*. The public betting firm had a CEO whose garden was taken care of by the firm. This was according to an agreement, but Deloitte's (2010) investigation led to the fall of the CEO.
6. *Spania Case*. Politicians decided to build a home for elderly Norwegians in Spain. Millions were spent, but there was never a home built. A city manager was blamed and had to leave his job after investigation by PwC (2009).

7. *Terra Case*. Some small towns in Norway had the potential of becoming rich because they have great waterfall producing electric power. Instead of waiting for future utility income, they made investments based on future revenue. Investments were lost, and so were future revenues. The administration was blamed, not city politicians, by examiners from PwC (2008b).
8. *Troms Kraft Case*. Board and management initiated investigations focused on subsidiaries and other pre-defined themes by Nergaard (2013a-c).
9. *Tyrkia Case*. Child care in the city of Stavanger smuggled children out of Turkey by the help of a private investigator, who later received the blame by PwC (2013).
10. *Verdibanken Case*. Because of risky investments by the bank, the CEO had to leave his post after examination by law firm Wiershom (2012), even though it all had been approved by the board.

## **Discussion**

The purpose of private investigations is to clarify facts, analyze events, identify reasons for incidents, evaluate whether there is a systems failure, and if required, propose measures and consider the responsibility of individuals. In fraud examinations, focus of examiners is on potential financial crime. One or multiple examiners are appointed to collect and go through an often large stack of documentation. The reason for an investigation is often suspicions that form the basis for hypotheses of fraud. Hypotheses typically imply that business owners, directors, managers or employees are responsible for unacceptable circumstances. To clarify the situation, an extraordinary examination is often a suitable solution.

Examiners have an independent position in relation to the client as principal and the principal's command authority. Independence is also needed in relation to all parties involved in the investigation. If there is a lawyer who conducts the investigation, it is important that the

client understands that the investigation does not form part of any lawyer's ongoing legal quest for the client. Thus, the regular attorney-client privilege does not apply. The privilege ensures that a client may provide information to his or her attorney, in confidence, with the knowledge that such information is protected, and neither the client nor the attorney may be forced to disclose the information that has been shared to their judicial adversaries (Kopon and Sungaila, 2012). Since the lawyer acts as an examiner, and not as an attorney, the attorney-client privilege is not present in private investigations. The same applies to an auditor who undertakes an investigation mission.

A lawyer is a person doing legal work for clients. However, a lawyer is a knowledge worker, who combines legal insights with client problems to find a good or even optimal solution to problems (Gottschalk, 2014). Therefore, some lawyers take the role of fraud examiner as well. One of the tasks of internal auditors is to conduct reviews and inspections. For them, an investigation is an independent and extraordinary inquiry which aims to identify the facts in order to answer a defined and limited mandate. The investigation may include recommendations, and will form the basis for judgments and decisions. An investigation into suspicions of fraud is also a comparison of the facts with the legal framework.

Investigation is characterized by professions as accountants, lawyers, economists, former police detectives, and engineers conducting research. The typical investigation commission in Norway has a budget of two hundred thousand US dollars. Some investigation missions are small and performed for twenty or thirty thousand US dollars. The investigation of Statoil-Hydro in 2007 had fraud examination costs of thirty million US dollars; the investigation of Yara in 2011 had costs of ten million US dollars; while the investigation of Troms Kraft in 2013 had costs of six million US dollars. Chairman Inge K. Hansen in Troms Kraft refused to pay an additional bill of two million US dollars from fraud examiner Leiv Nergaard, as the agreed limit was six million (Grande, 2013).

Independence for the examiner is not just an issue in relation to the client and people who get in touch with the investigation. For example, a lawyer in a law firm cannot take on a fraud examination assignment if another lawyer in the same firm already has other roles in relation to the client or people who get in touch with the investigation. A colleague in the law firm may already have taken the role as advisor and defense attorney for one of the executives who are suspected of misconduct and possible white-collar crime. Is the CEO suspected of misconduct and an attorney in a law firm has agreed to take the case; then another lawyer in the same firm cannot undertake to investigate fraud, where the CEO might have been involved. When a lawyer undertakes to defend a white-collar for suspected economic crime, then the attorney is sometimes called a white-collar crime lawyer. Role mixture must not only be avoided in law firms. The same applies to other professional services firms such as audit firms and consultancies (Gottschalk, 2014).

This research article is not about naming and shaming individuals and companies. It is about empirical study, where there is no reason to anonymize fraud examiners.

## **Conclusion**

This article has presented exploratory research into private investigations by fraud examiners. More than half of all private investigations conclude by blaming someone who could not always defend himself or herself. The blame game seems to have occurred both when the client – who paid for the work – pointed the investigator in a specific direction, and when the investigator only had one hypothesis about causality for a negative event. Suspected individuals did not always become subject to a fair investigation by private examiners and financial crime specialists.

The blame game hypothesis is all about placing the blame for harmful acts on others. It is all about removing any blame or responsibility for the unjust from the client who pays for the

investigation. Nobody will blame oneself for a negative event. Self-blame is very rare. The blame game was explained in terms of negative events that are attributed to individuals who the contractor or account giver would like to blame.

However, since this is exploratory and qualitative research, this article does not at all provide sufficient support for the blame game hypothesis in private investigations of white-collar crime suspicions. Rather, this article has contributed to insights into problems in private investigations by applying the blame game hypothesis.

Thus there are ample avenues for future research. In terms of theoretical contribution, both attribution theory and decision bias theory should be explored in future research. In terms of practical implications, private investigators should be aware of the pitfalls discussed in this article. Certified fraud examiners are bound by a code of ethics that prevents them from being pointed in a specific direction by the client. The client cannot pay for a desired result. However, it may seem that these things are happening. The client may ask the examination team to investigate Person A (and not Person B), but the client may not ask for the examiners to conclude that Person A is guilty of X. Thus, even if only one idea is presented, this does not mean that a person will automatically be found guilty. However, there remains the issue whether or not it is acceptable that Person B is left out of the investigation focus. Objectivity here means that the investigator should look for the truth. If the truth about a negative event is found by investigating Person B, maybe the examiner should be entitled to investigate that person.

The research findings section may seem to be basically a table of raw data. More analysis is needed. Also, interviews with clients, examiners and victims might help enrich the empirical basis for analysis. At the start of this article, two key aims were suggested, i.e. presenting the result from a study of reports and, in doing so to evaluate the blame game hypothesis. These two aims were not completely achieved. To achieve these aims, we need a more in depth

analysis of the raw data which was presented in the findings section. The themes needed to be drawn out of this data include how many resulted in prosecution, who were the most likely to be accused, who were the most likely to make allegations, and why did they make allegations. An interesting question is whether the fraud examiner can be held responsible for individuals who become potential victims. Media speculation and job loss turn investigated individuals into victims of a fraud examination. Some examiners may argue that the problem lies elsewhere (i.e., media). Some examiners may argue that it is outside of the control of the investigator if other events lead to negative outcomes for the accused individual.

Future research has to further explore the usefulness of applying the blame game hypothesis towards an understanding of negative allegations and subsequent outcomes. It needs to address concerns about the potential for a miscarriage of justice or even loss of job or reputation in such cases. It should study what is fair and what is unfair, what is acceptable and what is unacceptable. False allegations need to be prevented from having consequences for individuals.

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