



# ACCG891

## Forensic Accountants and the Courts

S2 Weekend 2019

*Dept of Accounting & Corporate Governance*

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#### **Disclaimer**

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## General Information

### Unit convenor and teaching staff

#### Convenor

Verity Greenwood

[verity.greenwood@mq.edu.au](mailto:verity.greenwood@mq.edu.au)

Contact via By email

4ER - 310

#### Lecturer

Julian Dight

[julian.dight@mq.edu.au](mailto:julian.dight@mq.edu.au)

Contact via By email

Wednesday 10.00am- 12.00 midday.

#### Moderator

Michael Quilter

[michael.quilter@mq.edu.au](mailto:michael.quilter@mq.edu.au)

Contact via N/A

N/A

### Credit points

4

### Prerequisites

Admission to GradDipForAccg or MCom

### Corequisites

### Co-badged status

### Unit description

This unit examines the role of the forensic accountant in the courtroom, as an expert witness and/or consultant in a case. Legal jurisdictions and the core procedural issues and principles that guide the forensic accountant in the criminal and civil court system are covered. Students will appreciate the defined steps, roles and responsibilities of the forensic accountant that assist discovery, identification, collection, analysis and management of evidence in various contexts. Evidentiary courtroom rules and principles will be addressed as well as the professional/ethical standards of competency, confidentiality and objectivity and the legal liability of a forensic accountant in their role as an expert witness. The legal processes, principles and techniques of alternative dispute resolution in the settlement or determination of a dispute are also considered

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

Recognise and comprehend the legal jurisdiction, procedural issues and principles that guide the role of the forensic accountant in the court system.

Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the obligation to protect interests of parties.

Identify and interpret the rules of evidence and explain the role of the forensic accountant as an expert witness, including their professional/ethical responsibility and legal liability.

Understand legal processes of resolution of claims including Alternative Dispute Resolution and analyse the professional and ethical responsibilities of the forensic accountant in their collective roles in litigation support services.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">Participation</a>	30%	No	Week 1,3,9,12,13
<a href="#">Reflective Review</a>	30%	No	5pm Sunday 6th October 2019
<a href="#">Final Assessment</a>	40%	No	5pm Sunday 10th November 2019

### Participation

Due: **Week 1,3,9,12,13**

Weighting: **30%**

Participation involves attendance at the on-campus sessions and exhibiting evidence of preparation for, involvement in, and contribution to discussion, activities, and other required input.

#### On –campus sessions

**Date**

**Time**

**Module**

## **Focus**

3<sup>rd</sup> August 2019

9.00am – 5.00pm

1

1.1- 1.5

17<sup>th</sup> August 2019

9.00am – 5.00pm

2

2.1-2.3

12<sup>th</sup> October 2019

9.00am – 5.00pm

2

2.4-2.6

2<sup>nd</sup> November 2019

9.00am – 5.00pm

3

3.1-3.3

9<sup>th</sup> November 2019

9.00am – 5.00pm

3

3.4 - 3.6

On successful completion you will be able to:

- Recognise and comprehend the legal jurisdiction, procedural issues and principles that guide the role of the forensic accountant in the court system.
- Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the obligation to protect interests of parties.
- Identify and interpret the rules of evidence and explain the role of the forensic accountant as an expert witness, including their professional/ethical responsibility and legal liability.
- Understand legal processes of resolution of claims including Alternative Dispute

Resolution and analyse the professional and ethical responsibilities of the forensic accountant in their collective roles in litigation support services.

## Reflective Review

Due: **5pm Sunday 6th October 2019**

Weighting: **30%**

### Reflective Review Assessment

#### Topic/Requirement

#### Due date/deadline

#### Part 1:

#### Observation of a case in a Court proceeding

You are required to attend and observe a Court proceeding (criminal or civil) in your jurisdiction. You should allow at least 1-2 hours of observation.

Preferably by Week 7 (week commencing 9. 09.19) to meet the due date for Part 2 of this assessment

#### Part 2:

#### Reflective Critique

**This assessment** (word limit 1,500) requires you to reflect on your observations in the Court and:

Evaluate usefulness and content of the Court proceedings observation;

Identify your perceptions and understanding of the legal framework surrounding a court prosecution/litigation;

Reflect on court etiquette and relationships within the courtroom setting.

This assessment must be **submitted via iLearn/Turnitin no later than 5 pm on Sunday 6th October 2019**

No extensions will be granted. Late tasks will be accepted up to 48 hours after the submission deadline. There will be a deduction of 10% of the total available marks made from the total awarded mark for each 24 hour period or part thereof that the submission is late (for example, 25 hours late in submission – 20% penalty). This penalty does not apply for cases in which a **Special Consideration application** is made and **approved**.

On successful completion you will be able to:

- Recognise and comprehend the legal jurisdiction, procedural issues and principles that

guide the role of the forensic accountant in the court system.

- Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the obligation to protect interests of parties.
- Understand legal processes of resolution of claims including Alternative Dispute Resolution and analyse the professional and ethical responsibilities of the forensic accountant in their collective roles in litigation support services.

## Final Assessment

Due: **5pm Sunday 10th November 2019**

Weighting: **40%**

In this **assessment** (Word limit 2,000) you will be provided with a financial crime case scenario. You will assume the role of forensic accountant in the case and be required to identify the required/necessary processes, procedures and courses/s of action that you need to take relevant to the case. It must be **submitted via iLearn/Turnitin no later than 5 pm on the 10th November, 2019.**

No extensions will be granted. Late tasks will be accepted up to 48 hours after the submission deadline. There will be a deduction of 10% of the total available marks made from the total awarded mark for each 24 hour period or part thereof that the submission is late (for example, 25 hours late in submission – 20% penalty). This penalty does not apply for cases in which a **Special Consideration application** is made and **approved**.

On successful completion you will be able to:

- Recognise and comprehend the legal jurisdiction, procedural issues and principles that guide the role of the forensic accountant in the court system.
- Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the obligation to protect interests of parties.
- Identify and interpret the rules of evidence and explain the role of the forensic accountant as an expert witness, including their professional/ethical responsibility and legal liability.
- Understand legal processes of resolution of claims including Alternative Dispute Resolution and analyse the professional and ethical responsibilities of the forensic accountant in their collective roles in litigation support services.

## Delivery and Resources

### Unit web page

Course material is available on the Macquarie University learning management system (ilearn).

The web page for this unit can be found at <http://mq.edu.au/iLear/index.htm>

The timetable for session dates and recess can be found on the University web site at: <http://www.timetables.mq.edu.au/>

## **Prescribed and Recommended Texts and Materials**

### **Textbook**

Bamford, D. and Rankin, M.J (2017) *Principles of Civil Litigation 3e*, Law Book Co., ISBN: 9780455239071; ISBN: 41994607 (e book).

Weil, Roman L., Lentz, Daniel G. and Evans, Elizabeth A. (2017), *Litigation Services Handbook: The Role of the Financial Expert*, 6th Edition, Wiley Publishers, ISBN: 978-1-119-36318-7 (e book).

### **Journals**

Heitger, Les, and Greer, Olen L. (2018) 'Forensic Accountant to the Rescue: A good forensic accountant with experience in cost/managerial accounting has the ability to save your organization's reputation and finances.' *Strategic Finance*, Mar. 2018, p. 48-52.

Koch, B., 'Legal professional privilege over accounting documents: Hogan v Australian Crime Commission [2010] HCA 21', *Bar News*, Summer 2010-2011, pp 20-21. <http://www.austlii.edu.au/au/journals/NSWBarAssocNews/2010/59.pdf>

Sanchez, M.H. and Zhang, S.W. (2012) 'The Role of the Expert Witness in Accounting Fraud Cases', *Global Journal of Business Research*, Vol. 6, No. 1, pp. 103-111.

### **Legislation**

*Crimes Amendment (Fraud, Identity and Forgery Offences) Act 2009 NSW* [http://www.austlii.edu.au/au/legis/nsw/num\\_act/caiafoa2009n99500.pdf](http://www.austlii.edu.au/au/legis/nsw/num_act/caiafoa2009n99500.pdf)

*Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 (ACT)* <http://www.legislation.act.gov.au/a/2004-15/20040409-12338/pdf/2004-15.pdf>

*Evidence Act 1995 No 25 NSW* <https://www.legislation.nsw.gov.au/#/view/act/1995/25>

*Privacy and Personal Information Protection Act 1998 (NSW)* [http://www.austlii.edu.au/au/legis/nsw/consol\\_act/papipa1998464/](http://www.austlii.edu.au/au/legis/nsw/consol_act/papipa1998464/)

## **Unit Schedule**

The topics in the ACCG891 unit schedule are all approached with a focus on the role of a forensic accountant as a consultant and/or expert witness.

Module One: Introduction to the Litigation Environment	
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Topic/ Subsection	Reading	Content	Delivery
1.1 a. Introduction	Pre- read ACCG891 Unit Guide and Assessment Guide.	Introduction to ACCG891 course structure and assessment requirements	Recorded seminar prior to Week 1 seminar
1.2 b. The Criminal and Civil Justice System	<i>Read Crimes Amendment (Fraud, Identity and Forgery Offences) Act 2009 NSW, ss.192B-H.</i>	<ol style="list-style-type: none"> <li>1. Civil and criminal law classification</li> <li>2. Categories of law</li> </ol>	On-campus seminar Week 1 3rd August 2019
1.3 Commencing Civil Litigation: Jurisdiction and Parties	Read Bamford and Rankin, pp.27-54.	<ol style="list-style-type: none"> <li>1. Federal and State Court system hierarchy</li> <li>2. Parties &amp; Expert Involvement/ preparation in Case</li> </ol>	On-campus seminar, Week 1 3rd August 2019
1.4 Commencing Civil Litigation: The Practicalities	Read Bamford and Rankin, pp. 59 - 61	<b>Part A:</b> <ol style="list-style-type: none"> <li>1. Injunctions</li> <li>2. Search/seizure orders</li> </ol> <b>Part B:</b> <ol style="list-style-type: none"> <li>1. Asset preservation</li> <li>2. Pre-litigation disclosure</li> </ol>	On-campus seminar, Week 1 3rd August 2019
1.5 Pre-trial/Termination of Proceedings	Read Bamford and Rankin, pp. 129 -143; pp.154-155.	<ol style="list-style-type: none"> <li>1. Default judgments</li> <li>2. Non-compliance/abuse of process</li> <li>3. Consent Orders/ judgments</li> </ol>	On-campus session, Week 1 3rd August 2019
<b>Module 2: Protection and Integrity of the Litigation Process</b>			
Topic/Subsection	Reading/Activity	Content	Delivery
2.1 Protecting Positions at Pre-Trial	Read Bamford and Rankin, pp.159 -176	<ol style="list-style-type: none"> <li>1. Injunctions-pre-trial criteria</li> <li>2. Preservation Orders</li> </ol>	On-campus session, Week 3 17th August 2019
2.2 Discovery	Read Bamford and Rankin, pp.188-199.	<ol style="list-style-type: none"> <li>1. Written reports</li> <li>2. Interrogatories</li> <li>3. Production of documents</li> <li>4. Requests for admissions</li> <li>5. Depositions</li> <li>6. Subpoenas</li> </ol>	On-campus session, Week 3 17th August 2019

<b>2.3</b> <b>Data Management</b>	Read Weil, Ch. 15, 15.1-29.	<ol style="list-style-type: none"> <li>1. Discovery Management</li> <li>2. Data preservation</li> <li>3. Data collection</li> <li>4. Analysis of email and electronic documents</li> <li>5. Analysis of Databases</li> </ol>	On-campus session, Week 3 17th August 2019
<b>2.4</b> <b>Privilege</b>	Read Koch, pp.20-21. Read Weil <i>et al</i> , pp. 11-14.	Legal Position of accountants	On campus session, Week 9 12th October 2019
<b>2.5</b> <b>Rules of Evidence</b>	Read <i>Evidence Act 1995 No 25</i> NSW; Read Weil <i>et al</i> , pp. 15-17.	<ol style="list-style-type: none"> <li>1. Rules in each form of examination</li> <li>2. Grounds for objection and inadmissibility</li> </ol>	On-campus seminar, Week 9 12th October 2019
<b>2.6</b> <b>Forensic Accountant as an Expert Witness</b>	Read Sanchez & Zhang, pp 103-111. Read Heitger, p.48-52.	<ol style="list-style-type: none"> <li>1. Expert testimony</li> <li>2. Post-trial briefs/finding of facts</li> </ol>	On-campus seminar, Week 9 12th October 2019
<b>Module 3: Navigating Liability, Dispute Resolution and Settlement</b>			
<b>Topic/Subsection</b>	<b>Readings/Activities</b>	<b>Delivery Content</b>	<b>Delivery</b>
<b>3.1</b> <b>Professional/Ethical Responsibility</b>	Read Bamford and Rankin, pp. 204- 206.	Professional standards	On-campus seminar, Week 12 2nd November 2019
<b>3.2</b> <b>Legal Liability as Expert Witness</b>	Read Weil <i>et al</i> p. 25 & Chapter 35, pp. 19-22).	Accountant liability litigation	On-campus seminar, Week 12 2nd November 2019
<b>3.3</b> <b>Alternative Dispute Resolution (ADR)</b>	Read Evans <i>et al</i> , pp. 18-22; p.125. Read Bamford & Rankin, pp. 217-235.	<ol style="list-style-type: none"> <li>1. ADR- Advantages/ Disadvantages</li> <li>2. Forms of ADR</li> <li>3. Rules governing ADR</li> <li>4. Role of experts</li> </ol>	On-campus seminar, Week 12 2nd November 2019
<b>3.4</b> <b>Settlement, Compromise and Costs</b>	Read Bamford & Rankin, pp. 293 - 307.9th	<ol style="list-style-type: none"> <li>1. Legal Costs</li> <li>2. Costs and Non -Parties</li> <li>3. Assessing Costs</li> </ol>	On campus session, Week 13 9th November 2019

<b>3.5</b> <b>Appeals</b>	Read Bamford & Rankin, pp. 318 - 321; pp 306-311.	1. Right to appeal 2. Types of appeal 3. Grounds for Appeal	On campus seminar, - Week 13 9th November 2019
<b>3.6</b> <b>Final Revision</b>			On campus seminar, Week 13 9th November 2019

## Learning and Teaching Activities

### Review topics, pre-read and prepare for assigned activities

Students are expected to have pre-read the readings listed in the Readings/Activities list in the Unit Schedule prior to attending each on-campus session so that they can contribute to the on-campus seminar discussions.

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central>). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Grade Appeal Policy](#)
- [Complaint Management Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#) (**Note:** *The Special Consideration Policy is effective from 4*

*December 2017 and replaces the Disruption to Studies Policy.)*

Undergraduate students seeking more policy resources can visit the [Student Policy Gateway](https://students.mq.edu.au/support/study/student-policy-gateway) (<https://students.mq.edu.au/support/study/student-policy-gateway>). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central>).

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/study/getting-started/student-conduct>

## Results

Results published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](https://ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

## Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

## Learning Skills

Learning Skills ([mq.edu.au/learningskills](https://mq.edu.au/learningskills)) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

## Student Enquiries

For all student enquiries, visit Student Connect at [ask.mq.edu.au](https://ask.mq.edu.au)

If you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

## IT Help

For help with University computer systems and technology, visit [http://www.mq.edu.au/about\\_us/](http://www.mq.edu.au/about_us/)

[offices\\_and\\_units/information\\_technology/help/](#).

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources Policy](#). The policy applies to all who connect to the MQ network including students.

## Graduate Capabilities

### PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

#### Learning outcomes

- Recognise and comprehend the legal jurisdiction, procedural issues and principles that guide the role of the forensic accountant in the court system.
- Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the obligation to protect interests of parties.
- Identify and interpret the rules of evidence and explain the role of the forensic accountant as an expert witness, including their professional/ethical responsibility and legal liability.
- Understand legal processes of resolution of claims including Alternative Dispute Resolution and analyse the professional and ethical responsibilities of the forensic accountant in their collective roles in litigation support services.

#### Assessment tasks

- Participation
- Reflective Review
- Final Assessment

#### Learning and teaching activities

- Students are expected to have pre-read the readings listed in the Readings/Activities list in the Unit Schedule prior to attending each on-campus session so that they can contribute to the on-campus seminar discussions.

### PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

## **Learning outcomes**

- Recognise and comprehend the legal jurisdiction, procedural issues and principles that guide the role of the forensic accountant in the court system.
- Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the obligation to protect interests of parties.
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- Understand legal processes of resolution of claims including Alternative Dispute Resolution and analyse the professional and ethical responsibilities of the forensic accountant in their collective roles in litigation support services.

## **Assessment tasks**

- Participation
- Reflective Review
- Final Assessment

## **Learning and teaching activities**

- Students are expected to have pre-read the readings listed in the Readings/Activities list in the Unit Schedule prior to attending each on-campus session so that they can contribute to the on-campus seminar discussions.

## **PG - Critical, Analytical and Integrative Thinking**

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

## **Learning outcomes**

- Recognise and comprehend the legal jurisdiction, procedural issues and principles that guide the role of the forensic accountant in the court system.
- Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the obligation to protect interests of parties.

- Identify and interpret the rules of evidence and explain the role of the forensic accountant as an expert witness, including their professional/ethical responsibility and legal liability.
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## **Assessment tasks**

- Participation
- Reflective Review
- Final Assessment

## **Learning and teaching activities**

- Students are expected to have pre-read the readings listed in the Readings/Activities list in the Unit Schedule prior to attending each on-campus session so that they can contribute to the on-campus seminar discussions.

## **Changes from Previous Offering**

1. Data Management has been added to Module 2 delivery.
2. The weighting in two assessments has been changed from the offering in Session 1, 2019. The weighting for the Reflective Review is now 30%. The weighting for the final assessment (financial crime case) is now 40%.