

## Cromer Finance, Ltd., et al. v. Michael Berger, et al.

**THE CLIENT:** Thelen, Reid & Priest, plaintiff

**THE CASE:** A group of investors claimed they were victims of accounting fraud. They had invested in a hedge fund whose manager (M. Berger) had covered up dismal earnings of the fund by falsifying the fund's financial records over a 3-year period. Despite the cover-up, the auditors of the hedge fund (one of the Big Four auditing firms) consistently issued clean, unqualified audits. More than \$500 million was lost. The plaintiffs were tasked with convincing jurors that the auditors failed to adhere to basic auditing principles when conducting the audits.

**THE TRIAL:** There were several challenges involved in the case, not the least of which was explaining the complexities of accounting and auditing practices to laypersons on the jury. In addition, the trial team needed to persuade jurors that accountability should not simply rest with the hedge fund manager, but should be assigned as well to the auditors who were bound by fiduciary duty to provide accurate reporting. Another challenge facing the trial team was bringing expert and witness testimony to the courtroom. The majority of the international witnesses in this case lived outside the jurisdiction of the court. Since they could not be compelled to testify, counsel turned to DOAR to bring this testimony to trial.

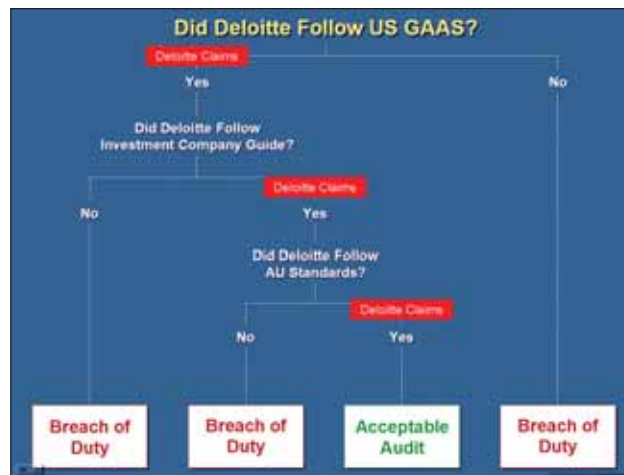
- The trial team relied on DOAR to conduct an in-venue [focus group](#). One of the major objectives of the focus group was to ascertain the degree to which jurors needed to be educated about standard accounting and auditing practices in order to both understand and respond favorably to the plaintiff's side of the case. Results of the [pre-trial research](#) showed that the jurors' ability to recognize the auditors' negligent and fraudulent behavior directly correlated with their understanding of the accounting and auditing principles at issue. The trial team was surprised to learn of the sophistication of many of the jurors and revised their approach to build upon jurors' familiarity with basic accounting principles. This exercise proved fruitful in creating a level of mutual respect between counsel and jury.

**“Early on we decided to make the trial as “paperless” as possible and to rely on trial technology whenever we could ... We hired DOAR toward the beginning of the case ... We attribute much of our success to our adversaries' awareness of our level of trial preparation, and how, through trial technology, we would be able to keep the jury focused ... ”**

**Veronica Rendon, Esq.**  
**Thelen Reid & Priest**  
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- Litigation Support played a major role in the [document management](#) of this case because the trial team made a decision early on to conduct a paperless trial. DOAR digitized and organized thousands of accounting sheets and documents were in order to establish a database of [evidence](#) against the fund's management.

- DOAR's trial consultants, skilled in evidence display software, uploaded all trial exhibits into Sanction to allow for on-the-fly document displays and PowerPoint presentations during opening and closing arguments. The trial team also relied on DOAR for the [trial support](#) and [graphics](#) to help illustrate the case.



- A facet of litigating in a global economy is deposing international witnesses, many of whom are outside the jurisdiction of the court and cannot be compelled to testify. The trial team turned to [technology](#) to videotape then digitize the depositions of these witnesses and bring this testimony to the courtroom. The testimony was synchronized to run underneath the image of the witness thereby allowing jurors to hear as well as see the witness.

**THE OUTCOME:** This case proved to be another example of how being technically savvy and trial ready can lead to a favorable settlement. The parties settled for an undisclosed sum.