

October 3, 2016

## For Court-Appointed Receiver, Digital Forensics is Key

*Samantha Joseph, Daily Business Review*

October 3, 2016



Daniel Stermer of Development Specialists Inc. *Courtesy photo*

Daniel J. Stermer's targets don't see him coming.

The managing director of financial consulting firm Development Specialists Inc.'s South Florida operations, Stermer is a court-appointed receiver often tasked with tracking digital paper trails to investigate fraud and other financial crimes.

One of his biggest tasks was receivership of Hess Kennedy, a Coral Springs-based debt settlement firm accused of pocketing millions of dollars from 90,000 clients who believed the firm had used that money to pay their creditors. Instead of settling its clients' debts on their

behalf, Hess Kennedy used their payments to cover its entire legal fees upfront before paying off their creditors.

The case led to disciplinary action for at least three attorneys, including a five-year suspension for principal Laura Hess. It also allowed Stermer's team the unprecedented feat of negotiating with creditors to delete more than \$150 million worth of negative items from credit reports of victims duped by the firm.

For Stermer, who recently discussed his work on the Hess Kennedy case with the Daily Business Review, surprise is a formidable ally in a line of work where even seconds of advance notice could provide suspects with enough time to erase key records, damage electronic servers and prevent recovery of victims' assets. This article has been edited for length and clarity.

### **What happens during the first few minutes you enter a firm to start an investigation?**

One of the first things we do is ask everybody to get off the phone and step away from their computers. We explain why we're there and attempt to stop any of the electronically stored information from being tampered with. The last thing you want to have happen is for somebody at that location, or someone from the outside with access to that system, to start deleting files.

There were about 100 people working at Hess Kennedy, including lawyers, paralegals and people on the phone.

It was a big call center and law firm with desks and offices set up everywhere, with representatives talking on the phone and collecting credit information, which made it crazier.

### **How do you immediately identify and marshal key personnel in a room of 100 people?**

There are certain people whose offices we immediately enter—HR, CFO, bookkeeper, president. We get their financial records, and bring in a forensic accountant. But you don't know if you can trust any of the people who are there, because you don't want someone sitting in the corner deleting anything.

At Hess Kennedy, we first sat down with the president, Edward Cherry, and Laura Hess, who was an attorney that the Florida Bar was investigating and would later suspend for five years. Some people tried to make off with their laptops, sneak out computers and thumb drives. Mr. Cherry tried to delete some computer files.

In these cases, we have a computer forensic expert who goes to the server room to disconnect outside connections, change administrative passwords and forensically image the server. If necessary, he images what's on each computer terminal in the facility, then copies the company's websites to have a clear picture of what the public saw. We make a duplicate of everything on the system, including a forensic image of the hard drive and deleted information no longer visible but not yet overwritten. And if there's voicemail, we want that voicemail.

### **What do the voicemails indicate?**

We're looking for information from clients, co-conspirators, victims. You never know what's there is until you find it. It's nice to walk into a case and find the smoking gun, but most times there's no smoking gun. Hess Kennedy was more like a puzzle, and we had to put the pieces together from messages, files, financial ledgers, check registers and sitting down with the key personnel. There's a money trail, and we need to determine where the money came from and where it went. It's never easy to put that puzzle together if some of the pieces are missing.

In the early days the questions were on the financial side. There was lots of money coming in from consumers, but very little money was going out to the credit card companies. Most of the work was being done by paralegals and people on the phone, who told consumers stories.

### **What are the litigation logistics in a case like this?**

It was a pretty interesting case to litigate. In a one-month period, we had eight special masters hold telephonic hearings and did several thousand telephonic hearings to deal with claims submitted by consumers. Special magistrates were appointed who did the telephonic hearings. They got consumers on the phone and we did hearings one after another, after another.

We also sued 27 different people and companies and recovered 30.5 cents for every dollar back to consumers. Equally important was negotiating the negative trade-line deletion on the credit reports. The AG's office asked us how we did that, and we said that we dealt with some sympathetic lawyers for the banks and creditors who agreed with us that the consumers tried to do the right thing. We said, "Don't penalize the consumer," and they agreed.