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Deixis, Speech Acts & Presupposition of Securities Fraud: A Pragma- Forensic Study

A B S T R A C T

Securities is term used in financial contexts to refer to those "financial instruments/vehicles" (e.g., assets, stocks and shares) that could be sold and purchased in the investment market. Securities/investment fraud includes the illegal practices used to deceive investors leading to their detriment. The focus of the study is on presenting a pragmatic and a forensic overview of fraud. The study aims to investigate the pragmatic features of the language used by fraudsters within the realm of investment and securities trade in terms of deixis, speech acts, and presupposition. It is hypothesised that time deixis is the most permanent type of deixes found in securities fraud. It is also assumed that commissive speech acts and factive presuppositions are the highest in their occurrences amongst all speech acts categories and presupposition types. Data is restricted to a specific case in securities fraud, i.e. (Case 3:15-cv-02365), depending mostly on and taking quotations from the United States Securities and Exchange Commission's complaints filed in 9/29/2015 against Jose G. Ramirez, JR, Ramiro L. Colon, III and UBS Financial Services Incorporated of Puerto Rico “UBSPR”. The analysis begins with a comprehensive background of the case followed by an application of deixis theory, speech act theory and lastly presupposition analysis of the case. It is found that person rather than time deixis is more used than other deictic expressions and that direct directives and indirect commissives are the most prominent categories of speech acts. Lastly, factive presuppositions are indeed found to be the most triggered presupposition type.

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الإشارة، والأفعال الكلامية، والافتراضات المسبقة في قضايا الاحتيال في الأوراق المالية:دراسة براغماتية–جنائية

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المستخلص

"السندات/الأوراق المالية" هو مصطلح يستخدم في السياقات المالية للإشارة إلى الأدوات المالية /الاِستثمارية (مثل الأصول المالية والأسهم) التي يمكن بيعها وشراؤها في سوق الاِستثمار. يشمل الاِحتيال في الأوراق/ السندات المالية كل الممارسات غير القانونية المستخدمة لخداع المستثمرين والمؤدية للضرر المادي لهم. تركز هذه الدراسة على تقديم نظرة شاملة عن الاِحتيال هادفة إلى التحقيق بالخصائص التداولية للغة الاِحتيال المستخدمة من قبل المحتالين في عالم الاِستثمار وتجارة الأوراق المالية وخاصة في نطاق الإشارات اللغوية، أفعال الكلام، والاِفتراض المسبق. إحدى الفرضيات التي تبنى عليها الدراسة هي أن الإشارات الزمنية هي الأكثر استخداماً بين باقي أنواع الإشارات في اِحتيال السندات المالية. كما يوجد اِفتراض ان أفعال الكلام الإلزامية والاِفتراض المسبق الوقائعي هما الأكثر شيوعاً بين الأنواع المختلفة لأفعال الكلام والاِفتراضات المسبقة بالترتيب. أما بالنسبة لنموذج الدراسة فانه يقتصر على احدى قضايا السندات المالية (Case 3:15-cv-02365) مع الاِعتماد على ما ورد في شكوى هيئة السندات المالية والبورصة في الولايات المتحدة ضد خوسيه راميريز والتي تم رفعها في تاريخ ٢٠١٥/٢٩/٩. يبدأ التحليل بمقدمة عن القضية ملحوقة بتطبيق لثلاث من نظريات علم اللغة التداولي ألا وهي: نظرية الإشارة السياقية، نظرية أفعال الكلام، ونظرية الاِفتراضات المسبقة. توصلت الدراسة إلى استنتاج أن الإشارة الشخصية وليس الزمنية هي ما يكثر اِستخدامه في هذا النوع من الاِحتيال كما أن أفعال الكلام التوجيهية المباشرة والإلزامية غير المباشرة هي الأعم. أما بالنسبة للاِفتراض المسبق الذي يعتمد عليه المحتالين في هكذا نوع من القضايا هو الاِفتراض المسبق الوقائعي، كما هو متوقع.

الكلمات المفتاحية: التداولية، علم لغة القانون، الاحتيال، الاشارات اللغوية، افعال الكلام، الافتراض المسبق

1. Introduction

Securities fraud/ investment fraud are names for those actions that violate the securities regulations and laws, leading to illegal financial gain for the fraudster and unfair loss for the investors. The questions to be asked are what are the types of deictic expressions that are mostly utilised by those fraudsters? What are the categories of speech acts that constitute the fraudulent interactions in the investment event? And how do fraudsters manipulate presuppositions of the victims to persuade them of the scheme? It is first hypothesised that time deixis is the most used amongst all the deictic expressions which add a sense of pressure to the scam. Commissive and directive speech acts are speculated to formulate most of the fraudulent interaction. Furthermore, (false) existential and factive presuppositions are hypothesised to be frequently and fraudulently imposed upon investors as if known facts.

This study is aimed to bring some attention to one form of fraudulent activities. Starting with a general explanation of fraud highlighting its elements, types, reasons and how governments deal with detected frauds. In order to answer the above stated questions, an investment fraud case is studied with linguistic evidence analysis depending mostly (but not solely) upon three pragmatic phenomena, i.e., deixis, speech acts, and presupposition.

It is shown by the results that the most frequent deictic expressions are the second and first person pronouns (person deixis rather than time deixis). These are used to directly address the victims and situate the speaker in an authoritative and providing position. This technique is crucial in making the victims feel the closeness and connection and it is useful for making the instructions clearer and more direct. As for the speech acts, it is proven that indirect promising (commissive speech act) is highly performed but the most applied speech acts are the direct assertives including: stating and representing. This adds a layer of authenticity and trustworthiness to the scheme. Furthermore, it is proven that existential and factive presuppositions are the most manipulatively triggered types of presupposition. It makes investors assume the truthfulness of the speaker's assertions especially when the fraudster makes use of previous knowledge and associates it to his scam.

2. Theoretical Background

2.1 Definitions

2.1.1 Pragmatics

One definition of pragmatics by Birner (2013, p. 2) is that it is "the study of language use in context", where the listener is expected to comprehend utterances within the specific context in which the utterances are used, i.e., to go beyond the literal semantic meaning of the uttered words and reach at the implicit, inferential and non-truth conditional meaning. The kind of meaning that attracts pragmatics is mainly characterised by being non-core, non-literal, context-sensitive, inferential, and one that is cancellable (i.e., not subject to truth conditions). Dictionary meanings and words alone are unimportant, since the meaning is variable according to the context and those involved in the communicative event (Birner, 2013, p. 4).

2.1.2 Forensic Linguistics

"Forensic" is a word that is derived from "forum", a Latin root that means "a public place [where] a case is being heard" (Martin, 2003, p. 210). Forensic linguistics is "the scientific study of language as applied to forensic purposes and contexts" (McMenamin, 2002, p. 67). In 1949, Philbrick used the term "forensic English" for the very first time in his language and law: the semantics of forensic English. However, the term "forensic linguistics" was proposed twenty years later by Svartvik. The field has developed massively until it is now "multi-and-cross-disciplinary" in that it draws upon not only linguistic fields like conversation analysis, discourse analysis, cognitive linguistics, etc., but also on psychology and sociology when studying language in relation to law (Olsson, 2008, pp. 3-4).

2.1.3 Law and Language of law

Law is a Scandinavian word in origin, brought to English during the invasion of the Vikings. It means "lay", i.e., "that which is laid"/ fixed (Tiersma, 2008, p. 9). Martin (2003, p. 280) defined Law as "the enforceable body of rules that govern any society". The language of the law, i.e., the language used by judges, attorneys and those who constitute the legal institution, is called legal language or "legalese". Consequently, texts produced or used in legal situations are called legal texts. Such texts can be written or spoken, descriptive (e.g., opinions), prescriptive (e.g., statutes) or both, like appeals.

Legal texts must be drafted with "clarity, precision, unambiguity, and inclusiveness" (Bhatia, 2010, pp. 37-38). The legal language has, in general, some characterising features that collaborate to produce the final shape of legalese and to function as solidarity markers for the legal community members (Tiersma, 2008, pp. 13-14). Such features are concerned with pronunciation/spelling, morphology/syntax, lexicon, semantics, pragmatics and style.

2.2 Fraud Pragmatically Defined

Fraud is a crime that is mostly based on language. Fraudsters rely on language as the tool number one for their conducts. Fraudulent activities occur in social settings where there exists a kind of communication or a relation between the perpetrator and the victim: vendor-purchaser, contractors, provider- receiver of service, manager-employee, doctor-patient, teacher-student, etc.

Humans have ideas, desires, and knowledge. In order to convey their ideas, humans have to communicate with each other through interactions and conversations. Fraud exists in these interactions. It is structured on manipulation and deceit. Fraudulent communications may be face-to-face, electronic (by e-mails), on the phone, on the internet, through contracts, etc. Fraud means using manipulative strategies for persuading others to willingly do/ hand something that they would not otherwise.

2.2.1 Fraud and Reference

Reference is a pragmatic phenomenon that unites linguistic expressions with contextual inferences about who or what is being referred to (Culpeper & Haugh, 2014, p, 13). Reference includes definite/indefinite expressions being "more semantic" and deictic expressions being "more pragmatic" in nature while anaphors are somewhere in between (Culpeper & Haugh, 2014, p, 15).

Fraudsters exploit these referential codes to deceive their addressees concerning what or whom they actually mean, deliberately creating more ambiguous texts with a deceptive goal in mind. A reference to a trustworthy figure's name can provide a cover for the fraud or the overlap of references within a text or talk to obfuscate the addressee's attention (Minhas & Hussain, 2016, p. 732). Fraudsters may also use a definite article to imply the assumption that what is referred to in the utterance is "shared by the interlocutors" (Culpeper & Haugh, 2014, p. 16).

Deictic expressions (for example I, you, this, go, now,and there) are only understood within the specific context of occurrence. Without context, these expressions remain

ambiguous ((Huang, 2014, p. 169 and Birner, 2013, p. 114-5). However, even within a context, a fraudster can still manipulate the interlocutor's interpretation of the utterance by pretending to imply a certain meaning to mislead and eventually defraud the addressee.

Research shows that different types of fraudsters apply different strategies concerning the use of personal and possessive pronouns. In the context of fraudulent news reports (Hamza, 2022) and fraudulent financial texts (Minhas & Hussain, 2016, p. 731), fraudsters prefer to disengage themselves by refraining from using the first person singular pronoun. Within mail fraud, on the other hand, fraudsters normally use the pronoun I to refer to the sender of the email and you, the receiver which implicitly creates a sense of connection between the sender and the receiver.

2.2.2 Fraud and Speech Acts

Fraud is a civil/ criminal offence. It includes the willingness to deceive others financial personal gains. Speech acts, a theory formulated by Austin and Searle. It is based on the idea that speaking equals doing ctions, i.e. speech acts like promising, , announcing, assuring, etc. As Austin (1962) showed, speech acts are of three kinds; namely, the locutionary act (i.e., the meaningful utterance), the illocutionary act (i.e., the intention of uttering which is covert in the case of fraud) and the perlocutionary act (i.e., the desired effect on people's minds, hearts and behaviours). Searle (1969) developed the theory suggesting representatives, expressives, commissives, directives, and declarations as the five categories of illocutionary acts.

Fraudsters employ speech acts intensively and manipulatively in their schemes. They build their intentionally chosen acts by taking advantage of the context, the fake identities and the assumed shared knowledge. Whether directly/ indirectly, explicitly/ implicitly, criminals deceptively apply speech acts in conveying messages that contradict their real intentions to deceive/ harm. "Language can [indeed] be used to hurt other" (McCready, 2024, p. 147).

Research shows that representative speech acts dominate in fraudulent business proposal emails, news reports and online shopping. Asserting an identity necessary for meeting legal and business obligations is crucial in such contexts. Representatives are also manifested in asserting events (Chiluwa, 2010, 3-12). They are also used in claiming fraudulent "facts", informing readers of why certain events are taking place, and imposing convictions onto the readers to shape their opinions and beliefs (Hamza, 2022, p. 8-10).

2.2.3 Fraud and Presupposition

The offence of fraud as a deliberate deceitful action is based on presupposition. As a pragmatic phenomenon, presupposition refers to the information, belief or assumption taken for granted by a language user when producing an utterance. It can be triggered lexically or syntactically (Huang, 2014, pp. 85-6). Based on these triggers and the context, presupposition can be used to analyse fraudulent interactions and fraudsters' intentions behind their linguistic choices. Context is considered a rich resource for fraudulent schemes. It is used to provoke particular inferences based on the "shared contextual knowledge" between interlocutors (Alake, 2017, p. 106). A major point in presupposition is that a fraudster does not have to

utter every word leaving much to be inferred, thus getting rid of the legal responsibility of overt lies or misrepresentations.

Fraudsters base their fraudulent communications on social and cultural shared norms and values as assumptions for their addressees to build their interpretations on. According to Minhas & Hussain (2016), corporate managers manipulate the reports concerning the health of their corporations and base their deceitful reports on the presupposition that the optimistic tone of the management implies success. This means that, (e.g., in corporate and insurance fraud schemes) emphasis of positive words and refraining from negative ones indicate fraud.

2.3 Fraud Legally Defined

2.3.1 Legal Definitions of Fraud

According to the Association of Certified Fraud Examiners' review (٢٠٢٤), fraud costs exceed $3 billion annually. What adds to that is the fact that in investigating and trying to prove the crime, the costs get even higher.

Fraud had been going on for over 4000 years, as evidenced by Hammurabi's Code, the first known comprehensive set of laws in history. Today, it still goes on affecting the savings as well as the lives of people, stability of companies and the broad economy. Statistically speaking, a new fraud scandal is declared daily, and this is just a scratch on the surface; the top of an iceberg. There are approximately eight undeclared, undetected or neglected fraud cases for every declared one (Smith & Shepherd, 2019, p. 3 and Pedneault, 2009).

One of the legal definitions of fraud was provided by Grant and Barker (2009, p. 226), i.e., "any deliberately false statements, misrepresentations or other deceitful proceedings by which a state is induced to give consent which it would not otherwise give". Comer (2003, p. 4) defined fraud simply as "any dishonesty through which one person intends to gain an advantage [tangible or intangible] over another". Silverstone and Sheetz (2006, p. 3) on the other hand, depicted fraud as an "infection" that affects the morals of society and that has "severe sequences". They diagnose greed and dishonesty as the main symptoms that call for a skilled physician.

When trying to understand what fraud is, it is essential to understand what it is not, as well. Fraud is not a theft in its conventional meaning, it is not negligence or ignorance, nor is it an error, for it involves as defining features the use of deception rather than violence and threats, awareness of the illegality of the action, and the presence of an intention to deceive the trusting victim.

2.3.2 Fraud Types

There is a variety of classifications and ways to categorise fraud types. There are so many types of fraud that the number of fraud types equals the number of fraudsters. People, programs, companies, and organisations (public, private, non-benefits and even charities) have no immunity to fraud (Pedneault, 2009, 66).

Comer (2003, pp. 4-6) divided fraud into two broader types: (a) fraud against individuals (like credit card fraud, tax fraud, and insurance fraud), which tends to be more familiar with less unit value; and (b) corporate fraud (which is quite the opposite being less common with much higher unit value). Comer proposed five subcategories of corporate fraud: corruption, conflict of interests, abuse of technology, false reporting or suppressing information, and assets stealing (embezzlement).

A five-level classification made by Beals et al. (2015), starting with a level similar to that of Comer's, and adding other subcategories as a level two highlighting consumer investment fraud, consumer services and products fraud, employment fraud, prize fraud, phantom debt collection, charity fraud, relationship fraud (Button & Cross, 2017, p. 11). In all of these categories, the victim expects a false or a non-existent benefits, whether a product or a service, relationship, prize, charity contribution or a job. Identity fraud was not added to that list because it aims to "secure information rather than monies". Every following level would allow for more precise and novel subcategories.

Fraud in the accounting world is distinguished into two main types, namely: the Management fraud and the Employee fraud (Pedneault, 2009, p. 3). The first is referred to as "financial statement fraud" while the second is known as "embezzlement". Pedneault mentioned other categories of fraudulent activities, such as tax fraud and, political malfeasance, involving: bribes, gifts, kickbacks, and some of the most common and easiest offences to obtain convictions on are bank, mail, and wire frauds. Pedneault finished his classification mentioning other schemes, such as: duplicate payment fraud, multiple payee fraud, shell fraud, and defective delivery fraud.

2.3.3 Fraud Elements

Generally speaking, the following are the basic elements of fraud: misrepresentation, material fact, intent, victim's "justifiable reliance", damage/ loss (Ehigie, et al., 2023). Legally speaking and mostly based on the traditional classic Latin maxim of criminality:"*actos non facit reum nisi mens sit rea*", there are two main components that must be identified to call any conduct a crime: the (actus reus) act/deed and the (mens rea); i.e., the "legally blameworthy attitude of mind" (Cronin, 2018, p.60). A third significant component highlighted by Jennings (2022, p.13) is the concurrence or the "joint operation" of the first two elements.

2.3.4 Reasons and Leading Factors of Fraud

Understanding the major types and elements of fraud is quite significant in fraud detection. However, understanding the triggers of fraud, reasons, and motivating factors is crucial in predicting and preventing a potential crime (Biegelman, 2013, p.5). The main reasons behind fraud are often financial: obtaining money, assets, property, and free services; maintaining a luxurious lifestyle, and climbing up the social ladder; obtaining some advantages (like a job) and avoiding payment for purchased objects or services. According to Biegelman (2013, p. 6), most of the motivations of fraud are "greed related". Another crucial factor, leading to fraud, is the lack of adequate surveillance. Inadequate monitoring and weak

internal controls within corporations lead to eventual disobedience of the law. Individuals and companies must never let their guard down.

By and large, to provide a full explanation of fraud, the criminologist, teacher, expert, and pioneer in the field of fraud research, Donald R. Cressey (1953) proposed the fraud triangle theory. Cressey explained why fraud is perpetrated by "trust violators" and how to predict such crime. According to Cressey (1953), the fraud triangle theory consists of three elements: perceived pressure, opportunity, and rationalisation. The three elements need to combine and interrelate to constitute fraudulent conducts (Wells, 2018, pp. 5-6; Abdullahi, et al. 2015; and Biegelman, 2013, p.47).

In 2004, Wolfe and Hermanson proposed the fraud diamond theory as an enhancement/extension of the previous theory of Cressy; they found that the three elements were not enough indicators of fraud and they needed a fourth element, i.e., *capability*. This new element consists of the personal traits and skills of fraudsters, such as, ego, arrogance, intelligence, creativity, and access to technological advancements (Chimonaki, et al., 2023). Biegelman (2013, p.7) illustrated that ego and the desire for revenge play a main role as leading factors of fraud, for instance, willingness to beat the system from within. Another example is the over-confident feeling of the fraudsters that they outsmart everyone else and no one can catch them.

In 2011, Crowe proposed the fraud pentagon theory which ignored Wolf and Hermanson's *capability* and added "competence" and "arrogance". The first element indicates the measurement of a specific performance and the skills that facilitate the execution of fraud while the other one refers to a characteristic that "overrides internal rules" like overconfidence and a willingness to outsmart the company's control systems (Chimonaki, et al. 2023). The last version, which is "Fraud Hexagon Theory", was established in 2019 by Voussinas who introduced the following six indicators of any fraudulent act: "stimulus, opportunity, rationalization, capability, collusion, and ego" (ibid).

2.3.5 Legal *Responses to Fraud*

Fraud can be dealt with differently across different jurisdictions. The clearest picture was provided by Smith and Shepherd (2019, p. 47), providing a comparison between criminal prosecution, private prosecution, civil litigation, and regulatory. Before civil and criminal courts, committing the crime, attempting to defraud, and possessing/creating articles for fraudulent activities are punishable (Fraud Act 2006 and Comer, 2003, p. 32).

Fraud can be differently dealt with in different legislations. Criminal prosecution focuses on convicting the offender, where it is a must to provide proof, that is evident and "beyond reasonable doubt", e.g., contracts, emails, and recorded documents. Restitution and compensation for simple and direct losses are sought after. The punishment involves "imprisonment and/or financial penalties Comer, 2003, p. 32-33). Private prosecution also focuses on convicting the offender, and the evidence must be beyond reasonable doubt, too. The main difference here is that the victim is liable for legal expenses, most of which can later be recovered from the state (Smith and Shepherd, 2019, p. 47). Civil litigation as Comer (2003, p.37) stated, can ensure compensations are paid and certain actions are taking place,

such as fulfilling a contract. Mostly, no custody is sentenced by civil law. Lastly, fraud is handled by regulatory systems. In this case, the sanctions are more limited, and may involve returning the overcharged money to the victim or taking away the offender's license (Smith and Shepherd, 2019, p. 46).

2.3.6 Fraud Prevention and Detection Systems

Fraud Prevention System is Plan A in fraud-fighting. It is impossible to avoid fraud entirely, or get complete immunity from such a "disease". To reduce the occurrence of fraud to the minimum, it is crucial to understand the nature of fraud and have knowledge of the facilitating opportunities of fraudulent actions as a starting point. Having awareness of the motivating factors is crucial to prevent the occurrence of fraud (Biegelman, 2013, P. 5). After the failure of the preventive measures, individuals and companies are left with tools and techniques that are used to detect the crime of fraud after it occurs. "*To detect"* means to identify and expose concealed fraudulent activities that "deviate from the norm". The financial aim is to mitigate and reduce financial risks by recognizing irregular behavioural patterns that indicate fraud (Cronin, 2018, p. 1).

3. Methodology

3.1 Deixis (Levinson, 1983)

The term Deixis is a borrowed Greek word with the meaning "*pointing* via language" (Xiang et al., 2024, p. 7). As a phenomenon, it refers to " the function of grammatical as well as lexical means relating a piece of language to its context in terms of its users, the time and place of its occurrence, and the people and objects it refers to" (Jiang, 2000, p. 11 in Xiang et al., 2024, p. 7). In other words, deixis refers to the use of grammatical elements in relation to contextual factors of interaction (including roles of interlocutors, social relations, attitude, time, location, and point of discourse). Huang (2014, p. 169) called these words that are used to point to or pick out a referent "deictics", "indexical expressions" or "indexicals".

Deictic expressions have a number of characterising features. Deictic utterances are "self-centred". They are context dependent. "Some but not all" can be used exophorically (referring to elements in the physical world), anaphorically (referring back), cataphorically (referring forward) and recognitionally (referring to common ground information). Deictic expressions are the easiest way of picking out a referent especially when the referent is hard to name/ characterise, e.g., "that thing" (Hanks, 2011, p. 317).

As is illustrated by Levinson (1983, p. 62), deictics can be classified into three "traditional categories"; namely, person deixis, place deixis, and time deixis. Following Lyons and Fillmore, Levinson added two other categories which are: social and discourse deixis.

3.2 Speech Acts Theory (Searle, 1969-1975)

In (1969) and finally (1975), Searle made influential developments on Austin's (1962) speech acts theory by connecting it to linguistics and sociology (Levinson, 2017, p. 201). The theory states that language can be utilised to do actions. These actions are of various kinds.

They demand a number of conditions to be fulfilled and are dependent in their interpretation on the speaker's intention and the overall context. For instance, by uttering "the door is open" the speaker can perform the speech act of informing, asking or ordering the hearer to leave (Panther, 2022, p. 112-3). Also, by uttering or writing something, one might even commit a crime (Levinson, 2017, p. 201).

Searle paid specific attention to the *illocutionary acts* and defined them as "the minimal unit[s] of linguistic communication". Searle considered this exact production (of noises/signs) as the real unit of the linguistic communication rather than the mere symbols produced. By producing these symbols, language users perform one or more speech acts. Searle (1975) proposed five speech acts categories. The first is the assertives by which the actor commits him/herself to the truth of the statement. The second category is the commisives by which the actors commit themselves to future some acts as stated by the verbs used. The third is the directives where the actor needs the receiver to fulfill an obligation. Expressives are the fourth category where the actor is conveying his/her attitude toward the proposition. The last category is the declarations with the essential feature of "saying it makes it so".

Searle was the first to distinguish between direct and indirect speech acts. Direct speech acts are ones that have correspondence between the form and function of the utterance. Indirect speech acts have no such correspondence. Thus, the utterance "sir, you are standing on my foot" does not in fact inform or assert a location but rather functions as a request "to get off my foot"; by uttering this, one performs the act of requesting indirectly.

3.3 Presupposition

Presupposition refers to a piece of information that is backgrounded and taken for granted in linguistic communications. Presuppositions are assumed by language users, often, without explicit assertion of such information. A presupposition can be defined as the background knowledge, the prerequisite information, or the shared beliefs of interlocutors in a specific situation. Presuppositions are "triggered" by certain expressions. These expressions "give rise to presuppositions" and are called "presupposition triggers" (Birner, 2013, p. 172). As defined by Kroeger (2018, p. 40), a presupposition trigger is a "word or grammatical construction which indicates the presence of a presupposition." In English, there are a lot of expressions that are indicative of presuppositions, such as lexical triggers (definite descriptions, gender-distinction pronouns, aspectual/ change of state predicates, iteratives, factive predicates, implicative predicates, quantifiers) and structural Triggers (Temporal clauses, cleft sentences, counterfactual conditionals, relative clauses, wh-questions).

4. Data Analysis and Discussion of Case 3:15-cv-02365 (document 1: complaint)

4.1 Background

This case was brought before the United States District Court for the District of Puerto Rico by the Securities and Exchange Commission (plaintiff) against Jose G. Ramirez (defendant) to forbid any further fraudulent practices. Ramirez is the registered representative of a broker-dealer corporation in Puerto Rico named UBSPR. For more than seven years, he constantly and knowingly misrepresented and omitted material facts from customers

concerning the corporation policy and the risks they would not otherwise take. Ramirez as a registered representative was trained by the corporation on the specific policy that prohibited the use of the Line of Credit (LOC) for the purchasing of stocks/securities. Yet, he did just the opposite. Ramirez violated UBSPR's policy by encouraging and advising the customers to circumvent this prohibition that restricted the use of LOCs. These violations benefited Ramirez a total personal gain of $2.8m., and caused future losses for those customers who followed his advice. "[C]ustomers received maintenance calls of at least $37 million." They had to deposit that amount of money to cover the decrease in the value of their purchased securities due to the declined market in 2013.

Based on the given facts, Ramirez was permanently prohibited from doing any kind of business with any member corporation in the Financial Industry Regulatory Authority (FINRA). Disgorgement and "civil money penalties" were sought by the Securities and Exchange Commission. In answering the five investigative questions, Ramirez (the representative of the Puerto Rico branch of UBSPR) was found to have "violated Section 17(a) of the Securities Act of 1933" during the period (2006-2013). By that, he was liable to pay the penalties and disgorgements as ordered by the court. UBSPR, on the other hand, was ordered to be censored and to pay penalties and disgorgement due to its negligence in specifying the way its policy should be applied and what customers needed to do to avoid any risk of violation. Ramiro L. Colon [branch office manager and Ramirez's supervisor] was liable to pay penalties as ordered by the court for his failing to supervise Ramirez as part of his duty.

4.2 Linguistic Analysis

4.2.1 Shuy's Analysis

1. Speech Event

The speech event on which the fraudulent practices are based is of a business meeting type. It consists of the introduction of investing plans, negotiation, advice and acceptance followed by the immediate accomplishment of the plan. In the introduction step, Ramirez introduces his vision for a better way for customers to invest their money which is by using their LOCs to buy stocks of the corporation's CEF's (closed-end funds). In the negotiation step, Ramirez (who is trained specifically on this part of the corporation's policy which prohibits the purchasing of CEFs using the LOCs) explains to the customers exactly how to dodge this obstacle. He advises them to withdraw their money or transfer it to a bank that is not associated with UBSPR just to redeposit the money in their "brokerage accounts" instead of their LOC accounts. The customers become convinced by Ramirez's "strategy" that cannot possibly violate the policy according to Ramirez's confirmation.

Ramirez makes many material misrepresentations and omissions to convince the customers of his "strategy". He falsely assures the customers of the safety of the process, insisting on his claims that no violations will occur, and that no risks shall be faced. All of his claims are lies that cover his fraudulent scheme.

Another speech event (meeting) occurs between Ramirez and one of the managers. The manager introduces his suspicions about odd transfers followed by deposits of the same

amounts of money. To reply to these suspicions, Ramirez expresses rejection and explains that these are transactions of "real estate" by the customers. The meeting ends with an agreement on the explanations Ramirez has to offer.

Speech event	Steps
Business meeting with customers	Introducing a new plan Discussion Persuasion Acceptance Application
Business meeting with Ramiro	Introducing an issue Defending self aggressively Explanation (Alternative) Agreement

Table 1: Speech Events

2. Schema

Between Ramirez and the customers, Ramirez is the only one who is aware of the UBSPR's rule that forbids the utility of LOCs to buy shares in UBSPR. What he does to deceive those customers is constantly and consistently repeating the statement that his strategy of investing does "not violate UBSPR's policy and the customer LOC agreement". So, now the customers believe and act according to their understanding that UBSPR allows such procedures advised by Ramirez.

Ramirez is also the only one who has knowledge of the risks of violating the regulation, the risks of decreased collateral value, the maintenance calls, and the risks of ignoring those calls. Ramirez paints a clear and bright picture of his scheme in the customers' heads and omits all these risks from the picture. Ignorant of such risks, the customers agree to take risks they will not normally take leading to their eventual losses when the value of their collateral drop below the allowed level and maintenance calls of $37 million are made.

On the other hand, the manager who has doubts knows nothing of the fraudulent activities that are going on in his branch. It is Ramirez who terminates the manager's doubts by psychologically manipulating him and by providing him with false reasoning.

3. Agenda

Having a look on the topic which is focused on by Ramirez, it can be said that he focuses on proving the success and safety of his scheme and insisting on the fact that it makes no violations whatsoever to the regulatory system of the corporation. Ramirez emphasises the bright side of his investment with a complete blackout/ withhold of details and information in regard to the risks of the questionable procedures. This is a big red flag. Inflating the positive areas in the investing plan and leaving out the negative ones are concerning issues that should be noticed as signs of fraud. In order to silence the doubts, Ramirez brings up his integrity and becomes irritated that he (the honest "Banking Champion") is being questioned like that.

Making it a personal matter like that is red flag that should have been noticed by the manager. For such ignorance, the manager is held responsible by the court's decision.

Theme	Topics
Positive image of the scam	Safety Success Legitimacy No violations of policy
Normalising the transactions	Integrity Real estate transactions

Table 2: Agenda

4. Speech Acts

(Quote 1)

> "***If I give you this dollar and you bring [another dollar] back next month, it's not the same dollar.***"

In (Quote 1), Ramirez's utterance seems to perform the speech act of direct **stating** (**Assertive Speech Act**) aiming to indirectly justify the "strategy" and convince the customers of its legality. It can be seen as an indirect way of **instructing** customers to take (withdraw) their money and redeposit the money after a while so that it is not "the same" LOC money (**Directive Speech Act**).

(Quote 2)

> "Ramirez misrepresented the true risk of CEFs, and would instead refer to them as ***stable investments akin to bonds.***"

Quote 2 includes Ramirez's act of **representing** his scheme as being similar in nature to a legitimate way of investing which is "bonds" (**Assertive speech act**). That comparison aims at assuring the legitimacy and legality of the investment idea. It could be counted as an **indirect promise** that his strategy is "stable" and legal (**Commissive Speech Act**)

(Quote 3),

> "Ramirez routinely told customers that *their investments in CEFs were so safe that* ***"Plaza Las Americas will go bankrupt before anything happens to your money."***"

In (Quote 3), the function of the statement is an indirect **promising**/ **guaranteeing** the success of his investment "strategy" (**Commissive Speech Act**). Ramirez's utterance conveys the idea that the largest shopping center in all the Caribbean and almost in all South America has more chances of bankruptcy than the customers' chances of losing their money which are simply none.

(Quote 4)

> "Ramirez signed multiple client verification forms, falsely representing that he ***had explained these risks to the customer***."

The "client verification form" that Ramirez signed includes a statement directly **representing** that he has explained the policy of the corporation to customers (**Assertive Speech Act**). In fact, he never did. The customers never knew the risk of violating the UBSPR's policy so they accepted the offer and followed his advice.

(Quote 5)

> "In 2011, when confronted with suspicions of this scheme by his branch manager, Ramirez *denied any impropriety* and expressed outrage that ***his integrity was being questioned***."

Ramirez used two speech acts when asked about suspicious occurrences by the branch manager. The first is directly **denying** any misconduct (**Assertive Speech Act**) and the second is **expressing** his anger and refusal for the fact that his decency is put under the microscope (**Expressive Speech Act**).

(Quote 6)

> "Ramirez gave an alternative explanation that ***funds transferred into the customer's UBS brokerage account soon after the customer withdraw a similar amount from his LOC account were actually the proceeds of a real estate transaction of the customer***."

Ramirez's statement performs the speech act of **stating** (**Assertive Speech Act**) to convince the manager of the alleged explanation that what was happening was completely legal and normal. This deceptive explanation was none but a mere mask for his fraudulent scheme.

(Quote 7)

> "Ramirez misrepresented to customers ***that they were not violating the UBSPR policy as long as they first transferred the proceeds to an outside bank account***."

More than one speech act are performed in the above quote of Ramirez's. The first is the **assertive speech act of direct stating**. Ramirez asserts that no violation is found to the corporation's policy. The second speech act performed by Ramirez is the **directive speech act of indirect instructing** for the customers to deposit their money into "an outside bank account". Finally, Ramirez's statement may function as an **indirect promising** (**Commissive Speech Act**) to assure customers that if they followed his instructions they would not break any rule.

Category	Type	Frequency	Percentage	Rank

Assertive	Stating	3	85.71	1st
	Representing	2		
	Denying	1		
Expressive	Expressing	1	14.29	2nd

Table 3: Direct Speech Acts

Category	Type	Frequency	Percentage	Rank
Commissive	Promising	3	60	1st
Directive	Instructing	2	40	2nd

Table: Indirect speech acts

It is obvious from the above analysis that two types of direct speech acts are mainly performed to manipulate the customers. These are the Assertives (including stating, representing and denying) and Expressives. Both types function as persuasive speech acts utilised by Ramirez to convince others of his false claims. As for the indirect speech acts, two other types are mostly performed. These are the commissives (promising) and directives (instructing). It seems like Ramirez is avoiding directly committing himself to any future actions and chooses to manipulate them indirectly to do what benefits him solely. Anyhow, it seems like direct stating and indirect promising have the highest frequency. The reason for that is to provide strong statements with weak commitment.

5. Conversational Strategies

1. Lying and misrepresentation of facts

Ramirez repeatedly lies to the face of customers and UBSPR's managers. He deceitfully states that no rules will be violated by his new investment strategy. He tells customers that the investment strategy is safe and legal. He assures them that their money is secured. Furthermore, Ramirez misrepresents that clients are aware of all the possible risks that he has supposedly explained, and he gives mere lies to the manager to justify and mask the misconducts that raise the manager's suspicions.

2. Omission of material facts

Ramirez knowingly left out all the risks that could hold back the customers from taking his ill-intended advices. Those risks cost customers a total amount of $37 million when the market regressed.

3. Trust and authority building

The position and reputation of a widely successful name like Plaza Las Americas helped Ramirez build credibility and trust for his own fraudulent scheme. Comparing chances of success to that big successful name leveraged Ramirez a lot and increased the chances of customers' acceptance.

4. Exaggeration and comparisons

Ramirez depends on exaggerating the chances of success, by comparing the investment plan to "*Plaza Las Americas*" that will never face bankruptcy and never lead but to success. Furthermore, associating his "*stable*" investment "*strategy"* with a legal promising one like "*bonds*", Ramirez once again exaggerated the strategy's safety and potential for success, leading the customers to follow his advice.

5. Symbolism and mitigation

Another strategy that is utilised by Ramirez is the symbolic language. Referring to the customers' assets using "this dollar" and to the withdrawal, transfer, and re-deposit using the verbs "give" and "bring back" are examples of symbolic language used to mitigate the serious and risky processes that in fact violate the corporate's rules and cost the customers a big amount of money.

Table: Presupposition Types and Triggers

Conversational strategies	Frequency	Percentage	Rank
Misrepresentation of facts	**5**	**50**	**1st**
Omission of material facts	**2**	**20**	**2nd**
Trust and authenticity building	**1**	**10**	**3rd**
Exaggeration	**1**	**10**	**4th**
Symbolism and mitigation	**1**	**10**	**5th**

Ramirez mainly depends on two strategies which are misrepresenting and omitting facts. This is to block the customers from knowing material information that would reveal his scam. The other strategies used to constitute the scam are trust building, exaggeration, and mitigation with 10% each. These strategies collaborate to camouflage the scam and paint it like a legitimate idea for the customers.

4.2.2 Deixis

(Quote 1) includes a number of deictic expressions. The first person pronoun "*I*" (**person deixis**) is used to have a surface reference to Ramirez himself, however, it symbolises UBSPR. This usage places Ramirez in a giving and a higher authority/ position. The second person pronoun "*you*" (**person deixis**) is referencing the customers and positioning them as receivers so as to prepare them psychologically to receive the provided advice well.

The demonstrative pronoun "*this*" (**place deixis**) in reference to the dollar, Ramirez just took out of his pocket, symbolises the money that the customers have in their LOC accounts. It also aims to mitigate the whole situation of transferring and re-depositing.

The (**temporal deixis**) "*next month*" refers to a hypothetical period that the customer is asked to wait before re-depositing the money into their brokerage accounts.

Table: Deictic Expressions

Type	Deictic expression	Frequency	Percentage	Rank
Person deixis	First person pronoun	1	60	1st
	Second person pronoun	2		
Place deixis	Demonstrative pronoun	1	20	2nd
Time deixis	Adverb of time	1	20	3rd

The fraudulent utterances are built on three types of deictic expressions. The most utilised are person deixes especially second person pronouns. This direct addressing strengthens the bond and relation of trust between Ramirez and the customers. He also makes use of place and time deixes to paint a symbolic image for his scheme that revolves around here and now. Such use of deictic expressions is important for the persuasion of the investors and to comfort their feelings about the new investing strategy.

4.2.3 Presupposition

(Quote 1) presupposes that things like money if given and returned, it can never be guaranteed that it is the same (physical) material (**factive presupposition** triggered by the **comparison** between "now" dollar and "next month" dollar).

(Quote 2) shows how Ramirez treats it as if a fact agreed upon by the customers that his investment is the same in nature as bonds (**factive presupposition**) triggered by the **comparison** "*akin to bonds*". This is to impose an idea of stability and safety.

(Quote 3) raises the assumption that the listener is aware of the existence of such a grand place as "*Plaza Las Americas*" (**specific existential presupposition** triggered by the **definite description**). Such a presupposition was crucial in convincing the customers of the guaranteed success of the investment.

In (quote 6), the **definite article** "***the***" is used as a definite description of "proceeds of a real estate transaction". It triggers an **existential presupposition** that such proceeds exist indeed. This presupposition was again crucial in covering up his fraudulent scheme.

In (quote 7), there is a **counterfactual presupposition** that is if the customers did not transfer their money to a bank that is not associated with UBSPR, a violation to the rules will occur. This presupposition is triggered by the **conditional clause** "*as long as they first transferred* […]"

Table: Presupposition Types and Triggers

Type	Triggers	Frequency	Percentage	Rank
Existential	**Definite discription**	**2**	**40**	**1st**
Fative	**Comparison**	**2**	**40**	**2nd**
Counterfactual	**Conditional**	**1**	**20**	**3rd**

Ramirez, in his fraudulent scheme, seems to depend on existential and factive presuppositions. He relies on the customers' previous knowledge to build their trust in his new idea (scam). Ramirez also makes the customers assume the truth of his false assertions by associating his scheme to legal and trust worthy business like bonds.

4.2.4 Implicature

(Quote 1) represents an example of the breaching to the maxim of manner. Ramirez violates Grice's maxim of **manner** by insisting on remaining unclear and ambiguous about how the same dollar is not the same. What he means is that the physical (material) dollar is something that is not expected to remain the same after a period of time. A complete different dollar could be returned even though it still has the same value. Overall, Ramirez talks about himself as giving a dollar, while he refers to the bank as allowing the customers to withdraw their money from their accounts.

(Quote 2) breaches the conversational maxim of **quality.** Ramirez's reference to his scheme as "*a stable investment akin to bonds*" is actually the opposite of what he believes as true. He knowingly and intentionally repeats such a statement to deceive the customers and convince them of his scheme.

(Quote 3) represents a breach of the quality and relevance maxims. Ramirez breaches the maxim of **quality** by comparing the investment's opportunity of success to that of a famous successful shopping centre. Hence, he asserts the safety of the investment which is something that Ramirez does not believe to be true or have any evidence of. It also violates the maxim of **relation** by bringing an irrelevant shopping mall to comparison with Ramirez's investing scheme. That shopping mall has nothing to do with UBSPR or the fraudulent scheme.

(Quotes 2 & 3) violate the maxim of **quantity**. Ramirez never, in his explanations to customers, discloses the consequent risk of decreased value of their collateral accounts. He never mentions that a maintenance call will be received and if no response is made, the corporation will act as it finds it appropriate.

In (Quote 4), that Ramirez has explained the possible risks to customers is a total lie. By signing the client verification form that states that he has explained those risks, Ramirez violates the maxim of **quality** because his statements are false.

In (Quote 5), by bringing his alleged "integrity" to the table when told about the suspicions that the manager has, Ramirez violates the maxim of **relation**. Instead of

clarifying those doubts he aggressively defends his honesty without being accused directly. This is to manipulate the manager's feelings and make him to take back his words of doubt.

(Quote 6) lastly Ramirez violates the maxim of **quality** by stating a false explanation for the odd occurrences of withdrawing and re-depositing the same amounts of money in short periods of time. His intentional false explanation is that these are "*the proceeds of a real estate transaction*".

In (quote 7), Ramirez's insistence that there is no violation to the policy of the UBSPR corporation is itself a violation to Grice's maxim of **quality**. Ramirez makes a material misrepresentation that his new investment does not violate any rule despite his training on the specific protocol that forbids the utility of LOCs for the purchase of CEFs.

Table: Implicature

Maxim breached	Frequency	Percentage	Rank
Quality	5	50	1st
Quantity	2	20	2nd
Relation	2	20	3rd
Manner	1	10	4th

Ramirez's statements represent an obvious breach to the maxim of quality since most of his utterances do not match his belief about reality. According to the quotes above Ramirez breaches the maxim of quality in a total of five times out of 10 breaches. He also seems to breach the quantity and relation maxims twice making them the second most breached maxims. While the least breached one is the maxim of manner which is only breached once.

Conclusions

1. Investment/ securities fraud depends on the different types of deictic expressions that are manipulatively employed to deceive people.

2. Person deixis are mainly utilised to deceive people and impose a false feling of closeness and connection between the fraudster and the potential victims. It is also used to directly address and clearly instruct those potential investors.

3. Place and time deixes are employed to simplify the fraudulent scheme and persuade the victims of the legitimate near future success.

4. The connectedness of the fraud and speech acts can be realised in terms of illocution, locution, and perlocution. The illocutionary part of the fraudulent act consists of actual words uttered by the fraudster. The illocutionary part is the presentation of the fraudulent statement in a desire to mislead the listener/ reader. Finally, the perlocutionary act is the effect of the outcome, e.g., gaining the victim's trust to hand over money, sign contracts or provide personal information.

5. Direct speech acts are performed in a very precise and manipulative way. Direct speech acts mostly consist of assertives (mainly stating and representing) and expressives. Assertives are crucial for building a trustworthy idea to persuade the investors. The expressives are used to aggressively express ones rejections for any doubts and make it look like a matter of questioning one's unquestionable integrity.

6. Fraudulent indirect speech acts employed in securities fraud are mainly commissives and directives. These are used to avoid direct commitments and liabilities.

7. Fraud and presupposition are intersected. This is evidenced in the way fraudsters found their actions on misleading and false assumptions presented to be accepted by others as unquestionable common ground information. Deceptive presuppositions that eventually lead victims into decision-making are legally treated as fraud.

8. Fraudsters of different kinds, whether email scammers, fake news reporters, etc., are found to exploit the context and shared norms to hide their manipulative intentions. Analysing offenders' way of embedding presuppositions to persuade others can provide a beneficial tool for detecting and preventing fraud.

9. Fraudsters in securities frauds depend mainly on shared knowledge of legal business practices to persuade people of their fraudulent schemes.

10. Existential and factive presuppositions are the main presupposition types upon which securities frauds depend.

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