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The language of fraud cases. By ROGER SHUY. New York: Oxford University Press, 2015. Pp. 301. ISBN 9780190270643. \$99 (Hb).

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Most of Roger Shuy's book, *The language of fraud cases*, describes cases in which S was involved as a linguistic expert, called by parties who were accused of some kind of fraud. Written in a journalistic style to engage readers from multiple disciplines, the book is a recent addition to a series of books that S has written over the past decade, describing his experiences as an expert witness. Other books in the series describe murder cases (2014), bribery cases (2013), sexual misconduct cases (2012), perjury cases (2011), and defamation cases (2010).

The case narratives most often describe a hypervigilant investigator or cooperating witness interpreting the target's ambiguous or incomplete statements to confirm the suspicion that the target of the investigation has indeed committed a fraud. The parties under investigation were ultimately seen by prosecutors as having lied or having been deceptive in some other way about being engaged in illegal activity.

S's analyses of these cases attempt to turn the government's narrative on its head. It is the investigator and the cooperating witness who act deceitfully, according to S. And indeed they do act deceitfully. In one case after another, the investigator resorts to double entendre, incomplete statements, and sudden changes in topic in efforts to lure the target into revealing a criminal agenda. The target believes himself to be participating in one speech event (see Hymes 1972), such as negotiation or receiving the report of a subordinate, while the speech event in which the investigator is involved is a fishing expedition to trap the target into an admission. Often, these efforts take the form of creating opportunities for the target to confirm the investigator's view that the target has engaged or is planning to engage in illegal activity. One must commit a fraud to uncover a fraud, standard law enforcement practices would hold. S suggests that this position is wrongful in principle, and ineffective in that it frequently leads to the prosecution of innocent people, since the government sets low standards for determining when it has actually uncovered a fraud.

Ch. 1 summarizes the law of fraud and the nature of linguistic inquiry in determining whether a fraud has been committed. Fraud is a crime of dishonesty. One commits a fraud by making false or misleading statements to another. If the victim of the fraud reasonably relies on the false or misleading statements and is thereby injured, a fraud has been committed. Some laws make it a crime to engage in a scheme to commit a fraud, which means that the fraud does not have to be successful to be illegal. Other laws require that the fraud be carried out.

Fraud is not the same as lying and does not require a lie, if we understand a lie to be a statement that the speaker believes is false but utters in an effort to pass it off as the truth. If a person makes a false statement, he does not commit a fraud if the statement does not induce a victim to act to

the victim's detriment. If I tell my aunt that the meal she just cooked for me was delicious while in fact it was terrible, I did not defraud my aunt, although I certainly lied to her. In addition, a person can defraud another through the use of half-truths and other forms of dishonesty that do not require making statements that are literally false. The rule promulgated by the US Securities and Exchange Commission that defines securities fraud captures this activity specifically. It declares it to be unlawful:

... (b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading ... in connection with the purchase or sale of any security. (17 CFR 240.10b-5)

One can commit securities fraud by making statements that are literally true, but insufficiently complete to avoid a misleading impression.

S follows this introduction to the law of fraud and the language strategies involved in fraud cases with eight chapters describing cases in which he participated as an expert on behalf of the accused. The chapters share a structure: the parties participate in a speech event, having entered into it with different impressions of the facts surrounding it (different schemas). The speech events typically have their own structure (negotiations, reports, etc.), which are more or less followed, although not always completed (e.g. unsuccessful negotiations). The content of the interaction reveals that the parties have not only different views of where things stand, but also different agendas for what they wish to accomplish. Using various speech acts and conversational strategies, the parties attempt to accomplish their goals. Often, it turns out, the actual interactions do not create strong evidence that a crime has been committed. The investigator may give the target an opportunity to confide an illegal purpose, but the target does not snap at the bait. In other instances, though, the target is caught red-handed.

S excels at creating dramatic tension in each vignette. Ch. 2 involves an investigation of fraud in a government contract. A program of the US government pays for the sale of military equipment sold to certain nations by private manufacturers. One of the regulations under the program prohibits the payment of commissions or finder's fees to third parties. S's case involved a US company that is a subsidiary of a French company. Together, they were building military helicopters for sale to Israel. An individual brokered the transaction and would ordinarily have a claim to a fee. As far as US law is concerned, it would be legal for him to receive a commission for the work done by the French parent company, but not for the work done by the US subsidiary. The government determined that a fee was paid illegally for the American work and prosecuted both companies. Each company paid a multimillion dollar fine. Then the government decided to prosecute the individuals they believed to be responsible for the illegal payments. One of them, the US company's CEO, retained S as a linguistics expert. The evidence against the CEO was a series of recorded conversations between a subordinate who had become a cooperating witness for the government, the CEO, and the person who would be due the commission.

There are several ways to pay illegal fees. One would be for the French company to overcharge the Israeli government for its share of the work and to use these additional funds to pay the commission for the work contributed by the US company. Another would be for the US company to pay the commission, but report that the money was used for some other purpose. The recordings contained no evidence of the CEO's wrongdoing. Either the CEO was involved in a scheme but careful enough not to reveal it, or he was not involved at all. What the government regarded as strong evidence was largely the subordinate's hints at illegality, which the CEO never confirmed. S did not testify at the CEO's trial, but his analysis was used, and the CEO was acquitted.

The second narrative (Ch. 3) concerns a metal finishing company in Minnesota, Hardcoat, Inc., which placed coatings of heavy metals, such as chromium, on various objects. Suspecting a leak of toxic substances into the environment, government environmental officers had inspected the company and had ordered it to hire a sewer inspection company to check for breaks and other damage in its sewer line and to have the inspection company videotape its inspection. Hardcoat complied. The inspection revealed various breaches in the sewer line, and the inspection company recommended calling another company to make the needed repairs. The work of this second company was also videoed. Later, government investigators spoke with both Hardcoat's CEO

and its environmental consultant. These individuals, along with Hardcoat itself, were later indicted for committing a fraud by lying during these interviews. Hardcoat continually characterized the problem as a blockage in the sewer line—not a breach in the line. Investigators further believed that Hardcoat knew of the problem and of leakage into the environment before it took the mandated steps to fix the situation.

S demonstrates that the various recorded conversations upon which the government built its case contain no convincing evidence that the Hardcoat officials knew in advance that there was a break in the sewer line, or that they tried to hide the fact from the government once it was discovered by the inspection company and repaired by the repair company. Since the government was receiving reports from these companies (and Hardcoat was not receiving them), it is hard to see why Hardcoat would even be advantaged by engaging in this kind of deception and cover-up. In one exchange, the government agent elicited from the CEO a comment that there was ‘no problem’ with the repair. Apparently, the government construed that remark as his saying that there was no problem with the sewer line. S argues convincingly that the comment indicated only that the repair company was able to do its work without anything serious going wrong—not that there was no problem with the sewer line in the first place.

The book is replete with examples of such unsuccessful communications, and the stories are all well told. In each narrative, S analyzes the speech events, schemas, agendas, speech acts, and conversational strategies of the participants, pointing out both the methods of the investigators in their efforts to extract admissions of illegal conduct or purpose, and their failures in doing so. In some cases, including the well-publicized case of Archer Daniels Midland conspiring to violate the antitrust laws by dividing the world market for certain chemicals among the various major players in that market, the client was found guilty. S does not argue in such cases that the legal system erred. In others, the client was acquitted, or the case was not brought to trial at all.

Notwithstanding the book’s many successes, it left me with two concerns. First, not all of the cases S describes really are fraud cases. This may not be a problem for many readers since the narratives are nonetheless successful. In one case, for example (Ch. 5), individuals involved in a pharmaceutical company were being investigated for attempting to steal trade secrets from Bristol-Myers-Squibb. S calls the chapter ‘Trade secret fraud’. But the chapter is not about fraud. It is about theft—or at least a government premonition that the individuals were interested in the theft. Anyone wishing to buy the trade secrets of a company from a high-level employee who has absconded with them can do so without lying or deceiving. In the case S discusses, the investigator hinted on several occasions that such a purchase may be possible, but the targets of the investigation did not bite. The same holds true for Ch. 4, which describes a case of bribing foreign officials, a violation of the Foreign Corrupt Practices Act, a federal law. The target of that investigation, a US businessman, was negotiating a contract to provide body armor to the military of Gabon. In conversations, an FBI agent attempted to lull the target into acknowledging his willingness to pay bribes in order to get the contract. But that never happened, and no charges were brought against S’s client, although the same operation produced some indictments against others. Again, violation of this law is a crime, but not a crime of fraud.

My second concern is that S, in reporting and discussing the events, tends to give the benefit of the doubt to his clients. When a target does not concede to being engaged in illegal activity, it may mean either that the target is not involved, or that the target is involved but is also very careful about what he or she says. In one case (Ch. 6, dealing with an investigation into whether a banker knowingly assisted in laundering drug money), the government’s agent used language suggesting that the banker was being asked to launder ill-gotten gains, and the target did fly large sums of cash in small denominations to Switzerland to deposit in a Swiss bank, but the language in the conversations was not specific and was in some ways furtive. The target said almost nothing in response to the agent’s hints. S rightly points out that there was no convincing linguistic evidence against the banker. But he also suggests that the banker did not understand the agent’s hints since the two participants had such different schemas in mind. We do not really know whether that was the case. We know only that the linguistic evidence was very weak. Apparently, the government was right, at least in part. The banker pleaded guilty to one count of illegal conduct. Perhaps fly-

ing internationally for the purpose of depositing small bills into a Swiss bank account is evidence enough of wrongdoing.

Roger Shuy has played a unique role in bringing linguistics to the legal system through the hundreds of cases in which he has participated as an expert. His ability to distinguish between evidence and innuendo makes him an especially valuable asset in bringing the fields together. Moreover, his methodology, using concepts from various theories of discourse analysis, provides a useful framework for considering the forensic problems he addresses. The book is a valuable contribution to the literature on forensic linguistics, and a significant addition to S's distinguished corpus of work describing his experiences, which serve as a model for applying a subfield of linguistics to important societal issues.

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