

# Fraud and Fraudulent Business Practices Related to the East Japan Earthquake



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## Disasters Caused by the East Japan Earthquake on March 11, 2011

People living in the northeast region of Japan along the Pacific Ocean were severely hit by a large earthquake (magnitude 9.0) at 1446 on March 11, 2011. Even in Tokyo, which was about 375 km from the center of the earthquake, we witnessed some casualties and much damage caused by strong sway. About 30 min later a large tsunami hit the long stretch of seashore along the Pacific Ocean. A total of 15,270 people were killed and 8,499 were missing (*White Paper on Disaster Prevention in 2011*: 13).

After the earthquake the Fukushima No. 1 Nuclear Electric Power Plant was hit at 1527 by the first high wave of the tsunami, and at 1535 by second wave (Tokyo Electric Power Company, 2012: 121). As a result, all electric power supplies to cool the reactors stopped.<sup>1</sup> As these reactors failed to cope with this state of emergency, at 1536 on March 12 a phreatic explosion occurred at the No. 1 reactor, followed by an explosion at the No. 3 reactor at 1101 on March 14 and at the No. 4 reactor at 0614 on March 15; also on March 15, many radioactive substances were emitted from the No. 2 reactor. Many people had to leave their homes after these disasters. During this situation, some frauds occurred. In this chapter I provide a case study using articles by Asahi Shimbun.

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<sup>1</sup> Two electric power generators meant for use in emergencies also stopped.

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## Police Activities Soon after the Disasters

No serious rioting or plundering occurred soon after the disaster on March 11, which was highly regarded in foreign countries (Abe, 2013: 116–117). In the areas that experienced the disasters, about 6000 cash boxes were reported to the police as lost after March 11, 2011. The police endeavored to find them; 99.8% of the cash from those cash boxes were returned to the owners (*White Paper on Police in 2012*: 18). When people found cash in the disaster area, they reported it to the police (*Iwate Prefecture Police*: 187). However, the police strengthened their activities to prevent crime in these areas, especially near the Fukushima No. 1 Plant, where people evacuated their homes. Each day, 449 police officers in their 210 police cars, as members of the Squad for Community Policing, were dispatched to patrol the damaged areas, together with police officers from three damaged prefectural police forces: Fukushima, Miyagi, and Iwate (*White Paper on Police in 2012*: 16). In addition, security companies all over Japan sent many guard persons as volunteers to aid in crime prevention activities and to supplement the activities of police officers.

The Special Riot Squad for Investigation was also dispatched to the three aforementioned prefectures. Each day, 92 members of the squad were sent with their 23 vehicles to investigate (*White Paper on Police in 2012*: 17). They caught a total of 278 suspects for offenses such as theft and robbery during the period from March 13, 2011, to June 4, 2012.

On June 9, 2012, the National Police Agency published data about the number of reported penal code offenses for the 3 months from March to May 2011 in the three aforementioned prefectures. In these prefectures all kind of offenses—including fraud—decreased compared with the corresponding period in 2010. However, because of the accident at Fukushima No.1 Plant as many as 99,000 persons left their homes unprotected, and the total number of thefts committed in Fukushima increased by 42%. The police exposed 16 cases of fraudulent business practices and 70 cases of fraud by June 4, 2012 (*White Paper on Police in 2012*: 17). In addition, the police watched the activities of Boryokudan, a group of Japanese gangsters, to ensure that they did not exploit people during reconstruction projects in the damaged areas.<sup>2</sup>

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<sup>2</sup>In the 1980s Boryokudan founded or bought many enterprises in such business fields as real estate, construction, and the financial markets, in which some “secret” lieutenants worked as the executives (Yokoyama, 1999: 143). Boryokudan may have exploited the reconstruction projects in the damaged area through enterprises they controlled.

## Warning against Fraud Soon after the East Japan Earthquake

In Japan, fraud and fraudulent business practices implemented through shrewd methods have increased, whereas the amount of conventional theft has decreased.<sup>3</sup> Therefore, many organizations warned against fraud soon after the East Japan earthquake. On March 16 the Saitama Prefecture Police issued a warning that mentioned several types of foreseen fraud (Asahi Shimbun, March 16, 2011). On April 14, the Consumer Affairs Center in Iwaki City in Fukushima Prefecture issued a warning of a fraud committed by taking advantage of those affected by the East Japan earthquake, because the center had already received information from a person in the damaged area that a swindler said to him, “I will take over debris at JPY100,000 if you contract now” (Asahi Shimbun, April 14, 2011). They warned citizens not to contract for unnecessary repairs in damaged homes and not to pay costs to have debris removed. In addition, the center informed citizens that they could bring debris to a temporary storage location free.

The National Consumer Affairs Center of Japan and the Consumer Agency established a special toll-free number for people living in three damaged prefectures (Fukushima, Miyagi, and Iwate) could call to receive a consultation. It was helpful for those suffering and prevented them from being victimized by swindlers. However, reports by victims of various kinds of fraud began to be received. The National Police Agency published data about fraud committed by taking advantage of those affected by the East Japan earthquake (Asahi Shimbun, August 5, 2011). A total of 31 suspects were arrested for fraud, including attempted fraud, by the end of July 2011. The total amount of damages by these frauds amounted to JPY33,750,000.

## Fraud Soon after the East Japan Earthquake

For 2 months after the East Japan earthquake, consumer affairs centers all over the country performed more than 12,000 consultations (Asahi Shimbun, June 8, 2011). In late April, the National Consumer Affairs Center and Consumer Agency warned people not to be victimized by fraudulent business practices. They informed the citizenry about 53 cases in which victims sold precious metals to a swindler for a cheap price after receiving a telephone call from someone who stated, “After East Japan Earthquake the precious metal for a heart pace maker ran short. I am collecting the metal for patients of heart disease”. In another case a swindler asked a person to buy the right of use in a senior home with a bath of hot spring in order to make sufferers enter this home. The police exposed other major frauds, which are described in the subsequent sections.

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<sup>3</sup>Purchasing power in Japan has declined, as the number of people over 65 years old amounted to 26% of the entire population. Therefore, sales activities became very competitive and fraudulent business practices were rampant. On the other hand, habitual thefts such as pickpocketing and burglary decreased.

### ***Fraud Related to Collection of Donation for Those Suffering Damage***

Many people—not only in Japan but also all over the world—sympathized with people who suffered as a result of the East Japan earthquake, and they donated money. In addition, many volunteers began to collect money to donate to those who were suffering. One week after the East Japan earthquake a fraud occurred related to the collection of donations. On March 18 an unemployed 29-year-old man was arrested for taking JPY12,000 (US\$120) under the guise of collecting donations on the street for those suffering after the earthquake (Asahi Shimbun, March 19, 2011). On March 19, 2011, a 53-year-old man, a self-professed director at an advising company, was arrested for attempted fraud: he had asked a 91-year-old woman to remit to his bank account a donation for sufferers (Asahi Shimbun, March 19, 2011).

According to research by the National Consumer Affairs Center of Japan, the consultation counter for consumers all over the country received 26 cases about collecting money for sufferers during the period from March 11 to March 27, 2011 (Asahi Shimbun, April 1, 2011). In most of those 26 cases, consultants lived in western Japan and did not experience any damage from the East Japan earthquake. Swindlers living in western Japan seemed to commit fraud more frequently than those in eastern Japan because they did not know how great the extent of the damage. According to data published by the National Police Agency on June 6, 2011, 274 cases of stealing money collected for sufferers were reported all over the country; a suspect was arrested in 54 of these cases.

### **Fraud Related to Repair of Damaged Homes**

The East Japan earthquake damaged about 160,000 houses, among which about 80% were partially destroyed. Owners could continue to live in their home if they repair some damaged parts such as the inclined pillars, roof tiles and window glasses. On March 31, 2011, the Ministry of Land, Infrastructure and Transport established the consultation counter to give those whose homes were damaged a number to call about repairs to their houses. If the person wished, the Ministry dispatched an architect to their home to propose needed repairs and provide a cost estimate for the repairs.

Nevertheless, fraudulent business practices occurred related to repairs. On April 1, 2011, Asahi Shimbun reported the case of a woman in her 80s who might have been victimized. A man had visited her house in the disguise of an architect. Seeing the roof tiles that had been destroyed by the earthquake, he urged her to sign a contract for repair, but her relative made her refuse to sign the contract. However, he visited again to demand payment of JPY50,000 (US\$500) as an inspection fee. She was lucky that her relative rushed to her house to make her refuse to pay it. In Japan, more and more swindlers are victimizing elderly people who live alone.

### ***Fraud about the Sale of Goods***

Immediately after the East Japan earthquake, people living in the damaged areas, and even in Tokyo, rushed to stores to buy such daily necessities as food and drink. These areas experienced goods shortages. People formed queues and waited patiently for a long time to buy goods at some stores. They never plundered. Someone, however, committed fraud to sell fake goods.

According to Asahi Shimbun, on June 18 a 30-year-old man working as a driving service agent in Wakayama Prefecture was arrested for selling PET bottles of tap water as mineral water through his online shop (By the way, Japanese call bottles made of polyethylene terephthalate PET bottles). He sold the bottles in the middle of March by advertising that the distribution of PET bottles was now being controlled because of the earthquake. It was not until October 25, 2011, that he was sentenced to 3 years of imprisonment with compulsory labor, with suspended execution for 5 years, for fraud and an offense of the Food Hygiene Law. In general, however, it is not easy for the police to collect evidence to prove fraudulent business practice.

A president of a company that sells healthy foods was arrested for an offense against the Pharmaceutical Affairs Law: he sold a bottle of mineral water containing iodine as a drug to rid the body of radioactive substances (Asahi Shimbun, May 26, 2011). His company earned about JPY4 million (US\$40,000) by selling 440 bottles of the mineral water. He committed this offense by taking advantage of people's fear about radioactive contamination from the nuclear accident at the Fukushima No. 1 Plant.

### **Fraud Related to Activity by Fake Medical Doctors**

Fraud decreased immediately after the East Japan earthquake. Within a few months after the earthquake, however, fraud, especially that related to activities to support the restoration of damage, increased gradually. In April, 2011, a 41-year-old man without a stable home and without a medical license began to provide medical activities to infants and elderly persons in Ishinomaki City in Miyagi Prefecture. In June he forged a document to prove he was a medical doctor and presented it to the Ishinomaki Council of Social Welfare. Then he succeeded in cheating the Nippon Foundation of JPY1,000,000 for a fund for his activities. He was sentenced to 3 years of imprisonment with compulsory labor (Asahi Shimbun, June 8, 2012). His sentence was severe because the judge thought that the man had betrayed both sufferers and volunteers.

### ***Embezzlement of Relief Supplies***

On December 5, 2011, Asahi Shimbun reported embezzlement by a 67-year-old former chairman of the Kinki Lions Club Council. In April and May 2011 the man was asked by Lions Club Councils in damaged areas to purchase relief supplies. As chairman he took charge of money for the purchase, from which he embezzled JPY4 million.

## Fraud by Solicitation to Fund Fake Investments

The Consumer Affairs Center has recently received many consultations about trouble concerning the purchase of bonds and private equity. The total number of consultation increased from about 3000 in the 2005 fiscal year to about 14,500 in the 2010 fiscal year. During the period from March 11, 2011, to the end of August 2011, the Center received 63 consultations about the purchase of bonds and private equity related to the East Japan earthquake (Asahi Shimbun, September 2, 2011).

On June 8, 2011, Asahi Shimbun reported on the following case. In late April 2011, a 50-year-old man living in North Kanto received a telephone call. The caller said, “The demand for pure water will increase after the nuclear accident at Fukushima No. 1 Plant. If you buy a bond for a company selling a water filter now, I will buy it later at a price 2.5 times higher than the current price. I propose this offer to only 49 persons”. Believing his solicitation, the man remitted JPY13 million to a bank account assigned by him. Later, however, the man could not contact the caller nor the company publishing the bond. As this case shows, men are more frequently victimized by fraud through solicitation to purchase bonds or private equity, whereas more women are victimized by remittance fraud.

Another swindler asked people to purchase equity in a company to support victims of the earthquake. He would say to a victim, “You should buy a private equity of a company with wind power stations, as any nuclear electric power plant will not be used in the future.”

On February 13, 2013, Osaka Prefectural Police arrested a 53-year-old self-professed executive of a construction company for fraud (Asahi Shimbun, February 14, 2013). In April 2011 he said to an 80-year-old man with no occupation in Osaka, “My plan to construct temporary housings together with a construction company was adopted in Fukushima. I will import these housings from Korea. But I am short of money.” Through this solicitation the swindler cheated the man of JPY25 million. In April 2011, the swindler also cheated a 60-year-old woman with no occupation in Osaka of JPY61 million by telling her that he was short the money needed to import 750 temporary houses from Korea<sup>4</sup> (Asahi Shimbun, February 14, 2013). The suspect was a former member of the Kansai Economic Federation and the Kansai Association of Corporate Executives.

A swindler established the Gunma Support Association for Individual Loan without registering as a financial trader. On November 14, 2012, Gunma Prefectural Police searched his house and five other places in three prefectures (Gunma, Saitama, and Tokyo) on the charge of an offense of the Financial Instruments and Exchange Law (Asahi Shimbun, February 7, 2013). At the end of March 2011, a woman affiliated with this association said to a 56-year-old woman in Kisarazu City in Chiba Prefecture, “The national government gave a subsidy for construction of the temporary housing. You will get 6% interest if you invest to support it.” Through

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<sup>4</sup>The suspect forged a document to “prove” the adoption of his proposal by the minister of Economy, Trade and Industry. He was arrested for both fraud and the use of a forged public document.

this solicitation the victim remitted JPY9 million to a bank account through the end of July 2011. The police estimated that the association collected approximately JPY500 million from 70 persons all over Japan through fraudulent solicitation.

Even after 2012, fraud related to support for sufferers continued. On June 10, 2014, Asahi Shimbun reported that Hiroshima Prefectural Police arrested three swindlers, including a 47-year-old man, in Tokyo for fraud. In the spring of 2013, the swindlers told a 74-year-old woman in Aichi Prefecture that they purchased for her a mountain forest in Fukushima Prefecture at a high price, fraudulently promising an increase in the price. In this way they cheated her of about JPY16 million. About 70 persons were cheated in a similar way of a total of about JPY400 million since December 2012.

## **Fraud by Taking Advantage of Support Systems for Sufferers**

The national government and local governments established several support systems for sufferers and for people to participate in restoration enterprises. Fraud occurred against these support systems.

Sufferers could receive a certain portion of collected donations distributed by a local government if they applied and showed a disaster certificate and a residence certificate. In June 2011, a 61-year-old man who moved from Yamamoto Town in Miyagi Prefecture to a safe place before the East Japan earthquake and who did not renew his residence certification cheated Yamato Town of JPY1,230,000 of donations by showing the incorrect certificate. It was not until June 11, 2012, that the police arrested him for fraud (Asahi Shimbun, June 12, 2012).

Many sufferers lost identification materials such as passports and driver's licenses. Therefore, a special law was enacted for those who suffered from the earthquake to be able to open a bank account without identification. Asahi Shimbun reported on August 19, 2011, about fraud taking advantage of this system. On April 11, 2011, a 24-year-old businessman without a stable home visited a bank in Shinjuku in Tokyo. By stating that he was a sufferer who lived in Ofunato City in Iwate Prefecture, he successfully opened a bank account under a fictional name. Saitama Prefectural Police arrested him for taking several bankbooks through fraud. The police suspected that he took these bankbooks in order to resell them and make money.

Asahi Shimbun reported about another case on September 28, 2011. In July 2011 an unemployed 48-year-old man visited a shelter in Toshima Ward in Tokyo and pretended to be a sufferer of the earthquake. He informed that he had lost all identification materials in the tsunami, and in this way he cheated an officer of the Toshima Ward of JPY63000 for "welfare expenses." He received a sentence of 4 years of imprisonment with compulsory labor (Asahi Shimbun, March 20, 2012).

A 46-year-old man without a stable home forged a disaster certificate, and through its use he succeeded in living in municipal housing free from March to July 2011. He was arrested for fraud because he evaded paying JPY42,000 to rent the house. He was imposed a sentence of 3 years of imprisonment with compulsory labor for forging a private document and for fraud (Asahi Shimbun, June 30, 2012).

On April 14, 2013, a 35-year-old employee of a company in Tokyo was sentenced to 3 years of imprisonment, with its suspension for 5 years, for committing fraud (Asahi Shimbun, April 16, 2013). In April 2011 the man visited a ward office in Sendai City in Miyagi Prefecture to acquire a disaster certificate by pretending to be a sufferer. By taking advantage of the system to support sufferers in Okinawa, he fraudulently received about JPY1,070,000 to pay the fare for a flight from Sendai to Okinawa and to pay rent for an apartment regarded as temporarily housing. Judging from the three aforementioned cases, judges tend to impose severe punishment on defendants without stable homes.

## **Fraud Related to Simplified Procedures to Receive a Subsidy**

Many subsidy systems were created to help sufferers recover from damage. The procedure to receive a subsidy was simplified in order to award subsidies as quickly as possible. For example, in July 2011, the Ministry of Education, Culture, Sports, Science and Technology issued a notification that local governments could decide on subsidies only by checking application documents when repair costs were less than JPY200 million. To take advantage of this system, a 55-year-old director and a 49-year-old kindergarten principal in Tagajyo City in Miyagi Prefecture destroyed ceiling panels themselves. On July 25, 2011, they applied for a subsidy to repair the ceiling panels and the wall of a gymnasium that was destroyed by the earthquake. In June 2012 the Miyagi Prefectural Police arrested them for cheating the government of JPY3,900,000 by padding the repair costs (Asahi Shimbun, October 28, 2012)..

## ***Fraud against Support Systems for Small and Medium-Sized Enterprises***

After the East Japan earthquake a special system was founded to restore the buildings of small and medium-sized enterprises. Under this system, an enterprise that had transactions with an enterprise in a damaged area could receive a special loan from a bank if the amount of sales during the 3 months after the earthquake decreased by more than 10% compared with sales during the corresponding period of the previous year.

Six months after the East Japan earthquake, the Special Investigation Team of the Tokyo Public Prosecutors' Office exposed a fraudulent business practice that took advantage of this system.<sup>5</sup> On September 15, 2011, a 38-year-old executive officer of a business consulting company was arrested for advising an apparel business how

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<sup>5</sup>The public prosecutors' office has a special investigation team in three cities—Tokyo, Osaka, and Nagoya—to expose large scandals in political and economic fields.

to fraudulently receive a loan from a bank. On the basis of his advice, a 47-year-old executive officer of the apparel business company succeeded in cheating two banks of JPY110 million in loans by padding the amounts of transactions of the apparel business with companies in the damaged area (Asahi Shimbun, September 15, 2010). On October 5, 2010, they were prosecuted on charges of fraud. They were sentenced to imprisonment with compulsory labor for 2 years, 4 months (Asahi Shimbun, March 29, 2012).

## Remittance Fraud

Since August 1999, swindlers have committed remittance fraud, taking advantage of the East Japan Earthquake and depriving elderly people of a large amount of money. On May 25, 2011, Asahi Shimbun described the following case.

A 76-year-old man living in Nishi, Tokyo, received five telephone calls on May 18, 2011. A swindler, impersonating this man's son, said, "I left my bag containing a promissory note in a train. I have to collect money before the contract. Please, give me money of JPY5 million. If a bank officer asks you about the reason for drawing money, please answer that I have to pay money for repair of my native house damaged by East Japan Earthquake."<sup>6</sup> The old man succeeded in drawing money from his bank account, and gave to a man pretending to be a colleague of his son. After handing over the money, the man asked his son about this and realized he had been a victim of remittance fraud. Through a similar technique, a man in his 80s who lived in Higashi Kurume City in Tokyo was deprived of JPY5 million on April 28, 2011; another man, also in his 80s, living in Nishi, Tokyo, was taken for JPY3 million on May 18, 2011. The police estimated that the same group of swindlers committed these remittance frauds. Calling a victim and pretending to be his/her son or daughter is a classic technique of swindlers committing remittance fraud (Yokoyama, 2018). The total number of remittance frauds reported to the police in Tokyo in 2011 amounted to 1563. Victims in these cases lost about JPY3,622 million (Asahi Shimbun, February 14, 2012).

Remittance fraud has also occurred in relation to support for sufferers. In early February, 2014, a 82-year-old woman in Kita Kyushu City in Fukuoka Prefecture received a telephone call in which a man asked her to donate money to sufferers (Asahi Shimbun, March 28, 2014). She refused. Then he said, "Your deputy donated in your name, by which both you and your deputy violated a law. You need to bring a lawsuit in order to prove no fault." The swindler made her send by mail JPY5 million on March 18, 2014, and JPY20 million on March 24, 2014, for court costs. On March 27, 2014, she tried again to draw JPY50 million from her bank account to send to the swindler. At that time, she was given a warning by a bank officer, who reported the request to the police. However, the police failed to find the swindler.

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<sup>6</sup>To prevent an elderly person from becoming a victim of remittance fraud, a bank officer working at the counter asks him/her why they want to draw such a large amount of money.

In May 2014, a woman in her 80s in Kochi City in Kochi Prefecture was cheated of JPY14 million in a similar way (Asahi Shimbun, September 3, 2014).

On July 1, 2014, a 68-year-old man in Shiga Prefecture received a telephone call from a person working for earthquake recovery in Fukushima. He was asked to call the Disaster Support Association. When he called the association, he received a request to send rent money by July 8. After he sent JPY6 million to a person in Osaka, he contacted the association, at which point he knew he had been defrauded.

On September 3, 2015, Akita Central Police Station in Akita Prefecture announced that a woman in her 70s in Akita City was deprived of about JPY30 million through remittance fraud (Asahi Shimbun, September 4, 2015). Since the beginning of July 2015, she received telephone calls from several people who pretended to be staff of a consumer information center or a nongovernmental organization. They informed her that she was in trouble regarding registration of her personal information with a company to supply prefabricated houses to sufferers of the East Japan earthquake. Upon their requests she sent money eight times to several places in Tokyo. She was informed that an investigator with the Finance Services Agency would visit her house on August 17, 2015. When the investigator did not come, she found that she had been defrauded. On June 23, 2016, Metropolitan Police Department arrested KK, a 36-year-old office worker in Tokyo as a leader of this remittance fraud scheme (Asahi Shimbun, June 24, 2016). The police announced that KK was the thirteenth member of a group of swindlers arrested for remittance fraud.

On October 21, 2015, Isezaki Police Station in Gunma Prefecture announced that a 81-year-old woman had been defrauded. On August 23, 2015, someone telephoned her requesting that she lend her name for a sufferer of the East Japan earthquake to enter a home for the elderly. She accepted this request, and the next day she received a telephone call from a person pretending to be a staff of the home. He said to her, “You will be arrested as an accomplice. You should send money to me in order to take procedures not to be arrested.” She sent JPY4 million to an assigned bank account. On October 26, 2015, Asahi Shimbun reported that Osaka Prefectural Police arrested KO, an unemployed 24-year-old man, and five other persons for remittance fraud. They swindled more than 20 persons in four prefectures of over JPY200 million. One was a victim in her 80s living in Yao City in Osaka Prefecture. During a telephone call someone requested her to lend her name in order to purchase temporary housing in areas damaged by the East Japan earthquake. Soon after she accepted the request, she received a telephone call from a person pretending to be an officer of the Finance Services Agency. He said to her, “Lending of a name is a crime. Money is needed to resolve this problem.” He suggested that she send JPY9 million to a woman in her 80s living in Yokohama. A woman in Yokohama was also requested to pay money in a similar way. The caller said, “Another woman pays instead of you. If you receive money from her, please contact me.” After receiving JPY9 million she delivered it to a person who was dispatched by a swindler.<sup>7</sup> This is the most sophisticated way to commit remittance fraud.

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<sup>7</sup>Swindlers employ young people to receive the money and to draw money from bank accounts. The police sometimes succeed in arresting these young people. However, it is difficult for the police to gain information from them to help expose the swindlers’ organization.

On March 22, 2017, Hiroshima Prefectural Police announced that a part-time worker in her 80s in Kure City in Hiroshima Prefecture was cheated of about JPY150 million. In December 2015, she was informed through a telephone call that she was registered as a supporter for sufferers of the East Japan earthquake. Then she was given her number as a supporter. She received another telephone call in which she was asked to give her supporter number. After she did so, the first caller informed her that leaking her support number was illegal but she would not be arrested if she paid JPY30 million. She sent money seven times (totaling about JPY150 million) to houses in Kyushu and Shikoku through the end of 2016. This was the most continuous remittance fraud.

Metropolitan Police arrested three suspects in their 30s in Tokyo for attempted fraud. On June 6, 2016, they called an 82-year-old woman in Okayama City, pretending to be employees of companies supporting restoration after the East Japan earthquake. They asked her to lend her name to purchase a machine to decontaminate radioactive substances. After she approved it, they informed her that lending her name was a crime, and that she should pay JPY200 million. She reported this to the police, and the three swindlers were arrested for attempted fraud.

## **Fraud by Members of Boryokudan (Japanese Gangsters' Group)**

About 30 years ago, the main illegal revenues of Boryokudan were sales of stimulant drugs, gambling and bookmaking, and strong-armed protection as bouncers (Yokoyama, 1999: 144). Because the police have strengthened regulation against these conventional illegal activities, however, Boryokudan have developed illegal interventions in economic activities to collect money. Police have recently strengthened the regulation of illegal money collected by Boryokudan (Yokoyama, 2016: 145).

The police knew that Boryokudan earned a lot of money by intervening in activities to restore areas damaged by the Hanshin Awaji earthquake in 1995. Twenty days after the East Japan earthquake, the National Police Agency issued a directive to exclude Boryokudan from restoration activities; this directive was addressed to all prefectural polices<sup>8</sup> (Asahi Shimbun, March 23, 2017). In addition, the National Police Agency requested associations in the construction industry, Tokyo Electric Power Company, relevant ministries and agencies, and local governments to exclude Boryokudan. However, a Boryokudan member committed fraud soon after the East Japan earthquake. During the 5 years after 2011, the police exposed 101 cases in which a member of Boryokudan was involved (Asahi Shimbun, March 23, 2017). However, it was the tip of the iceberg.

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<sup>8</sup>The power of the National Police Agency is not as strong as the power manifested by the State Police before World War II (Yokoyama, 2001: 192). One of jobs of the National Police Agency is to direct the standards of police activities to all prefectural polices. They observe its directives because the National Police Agency controls them through personnel management and the allotment of national government subsidies.

### ***Fraud Committed by Boryokudan Members after the East Japan Earthquake***

A 45 year-old boss and four members of his Boryokudan at Kamitonda Town in Wakayama Prefecture employed 12 persons to collect donations at 26 locations in three prefectures—Osaka, Hyogo, and Nara—during the period from March 15 to May 18 in 2011. Together with employed persons they collected about JPY380,000, which the boss spent for activities for his Boryokudan.<sup>9</sup> It was difficult for the police to arrest them, because they pretended to collect money as a volunteers' group, but Wakayama Prefectural Police arrested him and the four Boryokudan members for fraud on July 9, 2012 (Asahi Shimbun, July 10, 2012).

Soon after the East Japan earthquake, many people donated money through their bank accounts. Because of this rash of donations, the computer system of Mizuho Bank, one of three megabanks, became disordered. The bank had to stop the use of all teller machines March 19–21, 2011. During this period, the bank allowed depositors to draw money (up to JPY100,000) by showing a cash card at a counter, without checking their account balance. A 45-year-old executive member of Boryokudan withdrew JPY900,000 from nine branches of the bank, although his account balance amounted to about JPY10,000. At the end of August 2011, the total amount of money drawn over account balances from Mizuho bank was over JPY200 million. The bank asked the Boryokudan member to return JPY900,000. He did not, so the bank filed a crime damage report with the police. He was arrested for fraud on October 12, 2011, which was specially reported by the mass media as an offense committed by a Boryokudan member (Asahi Shimbun, October 12, 2011).

### ***Fraud Committed by a Boryokudan Member at Damaged Places***

In the areas that suffered from the East Japan earthquake, many Boryokudan members committed fraud by taking advantage of the loan system established for the victims of the earthquake. The national government and prefectural governments established a system to offer interest-free loans up to JPY200,000 to victims of the quake to cover living expenses. During the period from late March to early May 2011, the victims of the earthquake could receive a loan by applying to a prefectural council of social welfare. The Ministry of Health, Labor and Welfare issued a notification to prohibit Boryokudan members from receiving these loans.<sup>10</sup>

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<sup>9</sup>The boss's Boryokudan was affiliated with Yamaguchi-gumi, the largest among three wide-area Boryokudans. Because he had to pay a monthly membership fee to Yamaguchi-gumi, it seem he committed this fraud to maintain his Boryokudan.

<sup>10</sup>The discriminatory treatment of Boryokudan members has spread recently (Yokoyama, 2016: 145). However, the collected donation was distributed to all sufferers, as Boryokudan members were not legally prohibited from receiving the donations.

However, an officer at a council of social welfare gave the loan to many sufferers without carefully checking their status. The Miyagi Prefectural Police researched about 10,000 cases among the total of 40,000 cases of victims who were offered a loan to determine whether fraud had occurred and if so the amount of fraud. As a result, the police found 89 ineligible Boryokudan members who had received loans totaling about JPY10 million by hiding their Boryokudan membership from their applications for the loans (Asahi Shimbun, October 27, 2011). By the end of July 2011, the police had arrested 3 of the 89 Boryokudan members, and they were charged with fraud.

In Fukushima, about 170 Boryokudan members received loans illegally (Asahi Shimbun, November 29, 2011). Fukushima Prefectural Police also carried out research. It was not until September 10, 2014, that Kanagawa Prefectural Police arrested a 57-year-old executive of Boryokudan living in Koriyama in Fukushima Prefecture who did not repay a loan of JPY100,000 by the end of 2014; he had received the loan from the Fukushima Prefectural Council of Social Welfare in April 2011 (Asahi Shimbun, September 11, 2014).

Miyagi Prefectural Police arrested three members of one Boryokudan on September 10, 2013, and three members of another Boryokudan on December 12, 2013, for taking a cash card by deception.<sup>11</sup> In summer 2012 these members presented to a credit union in Sendai application documents for a JPY500,000 loan for sufferers; in these documents they wrote about a false income. They succeeded in acquiring a card to receive a loan. They seemed to exchange information about fraudulently taking a card.

### ***Fraud to Exploit Companies***

On February 6, 2013, the Metropolitan Police Department arrested for fraud SS, a 52-year-old former executive of Boryokudan in Kodaira in Tokyo, and two other persons. In April 2011 these three suspects pretended to be officers of a construction company listed with the first section of the Tokyo Stock Exchange. They requested that the president of a civil engineering company dispatch workers to Miyagi Prefecture to process debris. The president dispatched about 30 workers in the late April 2011, after which he paid about JPY10 million to SS as a deposit. Because this deposit was not returned, his company became bankrupt. SS exploited a legal company in a sophisticated, fraudulent way that Boryokudan have recently adopted.

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<sup>11</sup> Miyagi Prefectural Police continued to investigate a case of this card being taken fraudulently. On March 3, 2014, it arrested for fraud a 30-year-old executive of a company that sells used cars in Shiogama City, because he took a cash card fraudulently and withdrew JPY500,000 (Asahi Shimbun, March 4, 2014).

As the result of a recent law, Boryokudan members cannot formally manage a company.<sup>12</sup> However, they still substantially control many companies. They succeeded in earning money by making such companies participate in many restoration activities. The following case illustrates how Boryokudan can take over a company even though it does not have any legal control over it.

A legal company controlled by Boryokudan undertook jobs to decontaminate radioactive substances and to demolish houses damaged by the East Japan earthquake. Boryokudan received a JPY100,000 reward from the company for recruiting and dispatching workers and by exploiting a part of these workers' wages (Asahi Shimbun, March 23, 2017).

Boryokudan also earned money in conventional ways. For example, serving as "bouncers," they collected protection fees from bars and stores along bustling streets in such a big city in the reconstruction boom as Sendai and Koriyama, where many relief workers and dispatched workers entered. It was not easy for the police to expose the illegal money collected by Boryokudan during this time of crisis. However, many fraudulent business practices were exposed after 2012.

It is difficult for an investigation agency to expose some fraudulent business practices, because the border between a legal business practice and a fraudulent one is ambiguous. Therefore, in cases of fraudulent business practices related to the East Japan earthquake, it took a long time to expose them. The following sections describe the main fraudulent business practices exposed after 2012.

### *Scandal of Infinity*

Asahi Shimbun reported on January 12, 2012, that prefectural police in Ehime, Gunma, and Miyazaki arrested for a fraud "A," a 60-year-old president of Infinity, a company selling used cars, together with a 45-year-old former sales staff and two other suspects.<sup>13</sup> Without registering as a trader of financial instruments and exchange, in July 2011 they advertised that they would open a business to sell used cars in the Tohoku area, where about 410,000 cars were flooded by the tsunami, and that they would return money, with 20% interest, within 3 months after receiving the investment. Through this advertisement they cheated two persons of a total of about JPY6 million.<sup>14</sup> "A" collected the investment fraudulently through the use of several

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<sup>12</sup>According to research conducted by the police in February 1989, the estimated total annual revenue of Boryokudan amounted to JPY1,302 billion, of which 19.7% was acquired through legal means (Yokoyama, 1999: 143). Half of the illegal revenue was acquired by managing legal companies. To reduce the revenue of Boryokudan, the law prohibits Boryokudan members and their relatives from registering as an executive of a company.

<sup>13</sup>Usually, the mass media informs the public of the real name of an arrested suspect in a big scandal. It is curious that on January 13, 2012, and in March 2012, Asahi Shimbun wrote "A" instead of the perpetrator's real name.

<sup>14</sup>The public prosecutor did not prosecute other suspects because of insufficient suspicion (Asahi Shimbun, February 3, 2012).

tricks over the period from May 2008 to October 2011, cheating about 2500 people of more than JPY2500 million (Asahi Shimbun, March 15, 2012). This was a large, widespread fraud. Because delay by the police in exposing this fraud, the number of victims increased tremendously.

### ***Scandal of a Company to Produce PET Bottles of Mineral Water***

Many goods were in short supply immediately after the East Japan earthquake. A fraudulent business practices occurred concerning the shortage of mineral water. On February 20, 2014, the special investigation team of the Osaka Prosecutors' Office arrested for fraud SS, a 54-year-old president of a company that produces PET bottles of mineral water (Asahi Shimbun, February 21, 2014). In April 2011 he informed a food wholesale company that his factory produced 300,000 PET bottles of mineral water daily, although only several thousands of the bottles could in reality be produced. SS contracted the food wholesale company to purchase 3 million bottles. At that time he received JPY 52,500,000 as an advance payment. Because he delivered no bottles by the assigned date, the company charged him with fraud. On November 10, 2014, he received a sentence of 3 years' imprisonment with the suspension of its execution for 4 years (Asahi Shimbun, November 11, 2014). A judge stated that the defendant received the suspension because the defendant had promised to compensate the food wholesale company for the damage. It might have been a lenient sentence.

### ***Scandal of an Organization Supporting Regional Development in Tokyo***

The Metropolitan Police Department arrested TS, a 63-year-old former deputy chief director, and YK, a 64-year-old former director, of the Support Organization of Regional Development in Tokyo (Asahi Shimbun, July 15, 2014). In October and November 2012, they told the president of a construction company in Osaka, "We would dismantle a factory at the suffered area. We could make your company participate in it preferentially if you invested in our organization." Through this lie they cheated the president of JPY65 million.

### ***Scandal of the Support Association for Sufferers of the East Japan Earthquake and Nuclear Disaster in Tokyo***

The Support Association for Sufferers of the East Japan Earthquake and the Nuclear Disaster, presided over by Fumio Kyuma, a former defense minister, was founded as a nonprofit organization (NPO) in August 2011, mainly to supply temporary

housing. On August 22, 2014, the Tokyo Prosecutors' Office prosecuted four persons on charges of fraud: KS, a 42-year-old former staff member of the NPO; HM, a 55-year-old former employee of the NPO; HS, a 44-year-old part-time worker; and SN, the president of a company that dispatches hostesses to a party (Asahi Shimbun, August 23, 2014). In April and May 2012, they claimed payment of about JPY12 million from Tokyo Electric Power Company as compensation for damages that SN suffered from a decrease in the number of hostesses dispatched because of the nuclear accident. KS, HM, and HS carried out this claim as deputies for SN through the use of their titles as part of the NPO, stating that the earnings of SN's company decreased because of the nuclear disaster. Through this lie they succeeded in cheating Tokyo Electric Power Company of JPY12 million. In fiscal year 2012 no activity occurred to support sufferers through the Support Association for Sufferers of the East Japan Earthquake and the Nuclear Disaster.

On September 6, 2014, police arrested KS and HM again for another fraud, for which TS, the 54-year-old president of a construction company, was also arrested (Asahi Shimbun, September 6, 2014). The police officer responsible for coping with organize crimes at Metropolitan Police Department announced that three suspects claimed payment of about JPY18 million from Tokyo Electric Power Company and took it fraudulently between December 2011 and January 2012. TS's company received an order from an entertainment production company to construct a boarding house in Minami Soma City in Fukushima Prefecture. Although this construction was abandoned before the unclear accident because of the financial difficulty in TS's company, IS and HM claimed payment of compensation as deputies for TS.

On February 9, 2015, the police officers in charge of coping with organized crimes at Metropolitan Police Department arrested for fraud MN, a 77-year-old auditor of the Support Association for Sufferers of the East Japan Earthquake and the Nuclear Disaster, and SM, the 70-year-old president of a construction company. KS and HM also were arrested again for this fraud. In April 2012 they claimed payment of compensation money from Tokyo Electric Power Company on the pretext that SM's company could not produce shiitake mushrooms owing to the nuclear accident. Then, they fraudulently took about JPY41 million from Tokyo Electric Power Company. After being investigated by the Tokyo Public Prosecutors' Office, MN and SM received exemption from prosecution because they compensated the power company for damages (Asahi Shimbun, September 19, 2015). In January 2016, SN appeared at Tokyo District Court, where he admitted his guilt (Asahi Shimbun, February 27, 2016). Then he stated that an officer of Tokyo Electric Power Company taught him how to fill out application forms and that he paid to the officer a reward in the amount of 5% of the money received. Hearing his statement, the Metropolitan Police Department began to investigate the officer, who admitted to receiving several hundred million yen as a reward from SN, although he refused to admit being involved in the fraud.

On May 11, 2016, a judge announced that SN had swindled Tokyo Electric Power Company of money, totaling about JPY85 million, twelve times during the period from January 2012 to July 2012, conspiring with several member of the

Support Association for Sufferers of the East Japan Earthquake and Nuclear Disaster (Asahi Shimbun, May 12, 2016). He was sentenced to imprisonment with forced labor for 9 years. This scandal was the end of a series of frauds by people using the name of the Support Association for Sufferers of the East Japan Earthquake and Nuclear Disaster, a dormant organization. However, because the president of this organization was a former defense minister, investigation by the police might be delayed.

### ***Scandal of Fujihisa Construction Company in Ishinomaki City in Miyagi***

On October 30, 2014, Miyagi Prefectural Police arrested for fraud HI, a 52-year-old president of Fujihisa Construction Company (Asahi Shimbun, October 31, 2014). On April 2, 2011, HI became president of the Ishinomaki Support Council for Disaster Restoration. Because many volunteer groups carried debris from a house site to the adjacent road soon after the East Japan earthquake, in April the Ishinomaki City Government entrusted Fujihisa Construction Company with carrying debris on the road to a temporary storage site. Fujihisa Construction Company, together with four cooperative companies, only pretended to carry out this business, and afterward the company claimed payment of a total of JPY118,680,000 in fiscal year 2011, which the city government paid.

In March 2012 a whistleblower exposed the scandal at Fujihisa Construction Company. HI, as president of the Ishinomaki Support Council, borrowed a dump truck free from the Tokyo Support Council and used it to process debris. Fujihisa Construction Company included expenses for using this dump truck in the claim for total payment. After this was exposed, the company had to return JPY4,660,000 to the city government. In addition, HI resigned as president of Ishinomaki Support Council.

Ishinomaki City Council established a special committee to research this scandal. HI was arraigned as a witness by the committee. At the committee meeting he refused to submit documentary evidence such as a payroll book and a work diary. Then, in September 2012, the City Council brought to Miyagi Prefectural Police a criminal charge against HI of an offense against the Local Autonomy Law. This minor offense might have been chosen because they regarded HI as a leading figure in Sendai City. After receiving the criminal charge, the police began to investigate this scandal.

In March 2014 the police searched the offices of Fujihisa Construction Company, four cooperative companies, and others. On September 3, 2014, the police heard from HI as a witness. The police found that one of four cooperative companies neither performed any job nor received any payment from Fujihisa Construction Company. In addition, it exposed that Fujihisa Construction Company claimed payment for costs of jobs that many volunteers had performed free. Receiving this

information from the police, the City Council brought forward a charge of a fraud. At last, on October 30, 2014, HI was arrested for fraudulently taking about JPY12 million. On May 29, 2017, HI was sentenced at Sendai District Court to imprisonment with forced labor for 4 years (Asahi Shimbun, May 30, 2017). He was judged as the principal offender of a dastardly corporate crime, and so his sentence was not suspended.

### ***Scandal of Techno-Labo Company in Ibaraki Prefecture***

On May 27, 2015, the special investigation team of Tokyo Public Prosecutors' Office arrested for fraud KO, the 55-year-old president of Techno-Labo (Asahi Shimbun, May 28, 2015). After the East Japan earthquake areas experienced electric power shortages. In fiscal year 2013, in order to supply more electric power, the national government established the subsidy system to cover a half of the expenses (up to a maximum of JPY500 million) to establish a new private power generator.<sup>15</sup> In the summer 2013 Techno-Labo contracted a Chinese company to purchase 25 diesel generators at about JPY300 million. When they imported these generators, they evaded a consumption tax. In May 2014, KO applied for a subsidy of JPY500 million on the pretext that money for this purchase amounted to about JPY1,010 million. Although specialists at a think tank entrusted by the government carried out site research at Techno-Lab, they could not find proof that Techno-Labo did not transmit any generated electric power to Tokyo Electric Power Company. On the base of results of this loose research the government decided to give the subsidiary, by which KO received the JPY500 million subsidy from the government. On May 11, 2017, KO was sentenced to the imprisonment with forced labor for 8 years and a fine of JPY3 million at Tokyo District Court (Asahi Shimbun, May 11, 2017). Before this sentence, he was demanded by the Ministry of Economy, Trade and Industry to return the JPY500 million subsidy. If he returned it, he might receive the more lenient sentence.

### ***Scandal of BGB Company in Osaka City***

On December 2, 2015, Osaka Prefectural Police arrested on a charge of fraud SN, a 49-year-old president of BGB Company, founded in 2000 to develop human resources. The charges stemmed from misuse of employee funds set aside for wage and leave allowances.

To maintain the employment of workers, the national government uses a system to subsidize a part of workers' wages and leave allowances. After the East Japan

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<sup>15</sup>In fiscal year 2013 the government gave subsidies totaling JPY4500 million in 228 cases. The money received fraudulently by Techno-Labo amounted to 11.1% of the total subsidy amount.

earthquake, a special disposition was established in this system and enforced from March 2011 to March 2013. Under this special disposition, a company whose total amount of sales in damaged areas exceeded one third of all their products, the company could receive a subsidy. SN intended to swindle the government of this subsidy. Since June 2011 he had fabricated accounting documents to prove that the total amount of sale at Sendai Branch amounted to 34% of all products, although the actual percentage was very small. Applying 11 times to Osaka Department of Labor, by July 2012 he defrauded the government of about JPY290 million.

On January 7, 2016, Osaka Prefectural Police arrested SN again for another fraud. In autumn 2010 he bought a shell company for JPY200,000 and renamed it BGB East Japan (Asahi Shimbun, January 7, 2016). He pretended that the total amount of sale at Sendai Branch of BGB East Japan amounted to 57% of all products. Then, applying to Osaka Department of Labor, he defrauded the government of about JPY300 million. On October 18, 2016, SN was sentenced to the imprisonment with forced labor for 6 years for defrauding the government of JPY595,450,000 (Asahi Shimbun, October 18, 2016).

This scandal was just the tip of the iceberg. According to research from the Ministry of Health, Labor and Welfare, a total of about JPY2300 million given as subsidies under this system was not returned by the end of fiscal year 2015 (Asahi Shimbun, January 11, 2017). Many companies that did not return the subsidies they received did not respond to the research or denied their unlawfulness. It is very difficult for the Ministry to pursue criminal charges except for such an extreme case as the scandal at BGB.

### ***Scandal of Ando-Hazama Construction Company***

In June 2017 the special investigation team of the Tokyo Public Prosecutors' Office began to investigate for fraud Ando-Hazama, a semimajor construction company (Asahi Shimbun, June 19, 2017). Investigators heard from officers of the company and searched several locations, including a company building. During 2012 to 2015 the company received from Iwaki City and Tamura City in Fukushima Prefecture an order for a job to decontaminate radioactive substances. Ando-Hazama directed subcontracting companies to forge receipts in order to inflate a bill to these two local governments. In the case of jobs in Iwaki, the accommodation unit price per dispatched worker was increased by JPY2500, whereas the total number of employed workers was inflated to about 4300. In the case of jobs in Tamura, the corresponding price was increased by JPY500, whereas the total number of employed workers was inflated to 4500.

After this scandal was exposed, Ando-Hazama founded a research team. On June 9, 2017, the president of the company appeared at a press conference, at which he apologized for inflated bills to Iwaki City and Tamura City (Kahoku Shimpo, June 10, 2017). According to research results, the accommodation unit price was inflated

from JPY5,000 to JPY7,500 in Iwaki and to JPY5,500 in Tamura. As for the total number of employed workers, that number was inflated from about 11,000 to about 15,000 in Iwaki, and from about 5600 to about 10,000 in Tamura. Through this trick the company fraudulently received JPY 80 million from two cities. This scandal may come to an end only by prosecution of a director and his subordinates having ordered subcontracting companies to forge receipts if the company returns the money received. We are shocked that even a semi-major company conducted fraudulent business practices by taking advantage of restoration enterprises in damaged areas. Ando-Hazama must be strongly blamed for this scandal, although the mass media has not reported about it as big news.

## **Exposure of Bid-Rigging**

In Japanese communities, bid-rigging is a conventional business practice. Fair market competition has recently been emphasized, however, using the American model as an example to follow. There, bid-rigging is severely regulated not only under the Anti-Trust Law but also under the Penal Code, for example, Article 96-3 on obstruction against compulsory execution and Article 96-6 on auction related to a public contract. When bid-rigging violates the Anti-Trust Law, the Fair Trade Commission has the power to perform research, to issue a cease and desist order, and impose an administrative fine. In addition, in a serious case the Commission brings criminal charges in a criminal court.

It was very difficult for the Fair Trade Commission to collect evidence to prove bid-rigging. Then, through revisions to the Anti-Trust Law in 2005, a system was introduced to reduce or exempt an administrative fine imposed on a company that reports participation in bid-rigging in advance.<sup>16</sup> Under this system the Fair Trade Commission exposed the following bid-rigging cases related to the East Japan earthquake.

### ***Bid-Rigging by 30 Civil Engineering and Constructing Companies in Chiba***

Chiba prefectural government requested competitive bids for engineering works to repair roads and to fix damage from the East Japan earthquake. The Fair Trade Commission investigated 30 civil engineering and constructing companies for illegal rigging before this bid. Asahi Shimbun reported on December 18, 2013, that the Commission certified the illegal restraint of trade committed by these companies, an offense of Article 3 of the Anti-Trust Law,. The companies were told that the

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<sup>16</sup>This system was expanded through revisions to the law in 2009.

Commission would issue to them a cease and desist order to prevent reoccurrence of bid-rigging. In addition, the Commission would issue an order to pay an administrative fine totaling more than JPY200 million to about 20 of the 30 companies.<sup>17</sup> It took a long time for the Fair Trade Commission to issue those orders.

### ***Bid-Rigging by Companies to Construct an Agricultural House***

The East Japan earthquake destroyed many agricultural houses. As an enterprise to fix damage, the national government paid all expenses to construct a steel agricultural house. This construction was carried out through competitive bids to a local government.<sup>18</sup> After the construction was finished, a steel agricultural house was lent to a farmer, who paid only administrative expenses to the local government for its use. Asahi Shimbun reported on October 6, 2015, that the Fair Trade Commission entered and inspected seven companies that constructed agricultural houses on suspicion of repeated bid-rigging, that is, illegal restraint of trade prohibited by the Anti-Trust Law. The seven companies included such major companies as Iseki & Co., Watanabe Pipe, Mitsubishi Mahindra Agricultural Machinery, Yanmar Green System, Sankin B & G, Inochio Agri and Daisen. During 2012 to 2014 they submitted 22 successful bids, totaling about JPY17,500 million, to seven local cities and towns in Miyagi and Iwate. The percentage of the average amount for jobs acquired of the maximum bid price decided by an order agency amounted to 94.4% (Asahi Shimbun on October 7, 2015). This high rate proved bid-rigging by these seven companies.

Asahi Shimbun reported on December 21, 2016, that the Fair Trade Commission decided to issue to five companies both a cease and desist order and an order to pay an administrative fine totaling about JPY600 million. The Commission issued only a cease and desist order to Mitsubishi Mahindra Agricultural Machinery, which acquired no job through successful bids. On the other hand, Yanmar Green System did not receive any orders because it had reported the bid-rigging in advance to the Commission. On February 16, 2017, the Fair Trade Commission issued the above-mentioned orders to pay administrative fines after hearing excuses from the five suspected companies (Asahi Shimbun, February 17, 2017).

At the same time the commission gave a complaint to Miyagi Agricultural Public Corporation, which bid to take on such jobs as designing a steel agricultural house and estimating a price to construct it. After bidding the Watari Town Government in Miyagi Prefecture contracted with five companies for a total of about JPY7, 400 million, before which some officers of the public corporation had leaked to the five companies the maximum bid price in order to rig the bid. Knowing of cases of such leaking, the Fair Trade Commission submitted a proposal to take adequate measures

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<sup>17</sup>Other companies would not receive the administrative fine because its estimated amount was under JPY1,000,000.

<sup>18</sup>For example, the Watari Town Government in Miyagi carried out bids to order about 100 steel agricultural houses for growing a strawberry.

to avoid future leaks, which the commission regarded as illegal behavior that induces and facilitates bid-rigging. However, the Commission refrained from pursuing criminal charges for an offense against the Law to Prevent Governmental Manufactured Bid Rigging.

### ***Bid-Rigging by Road Repair Companies in Tohoku District***

All major companies that repair roads participated in bidding to receive a job to repair highways and main roads damaged by the East Japan earthquake. Some rigged bids to acquire a certain amount of profits without competition. In January 2015 the Fair Trade Commission began to conduct compulsory research related to 20 road repair companies on suspicion of bid-rigging (Asahi Shimbun, January 20, 2016). In December 2015 the special investigation team of the Tokyo Public Prosecutors' Office began to hear from officers in charge of bidding at these companies. On January 20, 2016, the commission and the special investigation team started to inspect 13 road repair companies on suspicion of bid-rigging carried out in summer 2011. At that time the Tohoku Branch of East Nippon Expressway Company submitted 12 competitive bids to repair highways. Through successful bids, 12 companies acquired 12 jobs, the total amount for which was about JPY17,600 million. The percentage of the average amount of jobs acquired of the maximum bid price decided by the Tohoku Branch of East Nippon Expressway Company amounted to about 95%, which was higher by 10% than that in the fiscal year 2010.

On February 29, 2016, the Fair Trade Commission reported to the Attorney General 10 road repair companies and 11 officers in charge of bidding on suspicion of illegal restraint of trade, an offense of the Anti-Trust Law. Seikitokyukogyo was not accused because it reported its participation in bid-rigging to the Fair Trade Commission before the compulsory research in January in 2015.<sup>19</sup> In February 2016, those 10 road repair companies and 11 officers in charge of bidding were prosecuted in Tokyo District Court. All defendants admitted their guilt in court.

On September 6, 2016, the Fair Trade Commission issued a cease and desist order to 20 companies (Asahi Shimbun, September 7, 2016). In addition, the Commission issued an order to pay an administrative fine totaling JPY1,409,510,000 to 11 companies that acquired jobs through a successful bid.<sup>20</sup> The next day, judges at Tokyo District Court served a guilty sentence for the first time to 3 of the 10 prosecuted companies (*The Nikkei*, September 8, 2016). They imposed a penal fine of JPY180 million on Maeda Road Construction in Tokyo. In addition, they imposed on an officer in charge of bidding a sentence of imprisonment for 1.5 years with

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<sup>19</sup> Kajima Road and Kokiwakogyo were also not accused. Kajima Road failed to acquire the job by the bidding owing to document deficiencies. Kokiwakogyo acquired the job in the place of a company assigned by the bid-rigging.

<sup>20</sup> Seikitokyukogyo was not imposed the administrative fine owing to presenting a report in advance to the commission, although it had acquired the job by a successful bidding.

suspension of its execution for 3 years.<sup>21</sup> In case of Gaeart TK in Tokyo and Kitagawa Hutec in Kanazawa, each company received a penal fine of JPY120 million, and an officer in charge of bidding received a sentence for imprisonment for 1 year, 2 months with suspension of its execution for 3 years. Officers may regard the sentence given to them as heavy, because they participated in bid-rigging as a work requirement they had taken over from their predecessors. The heavy criminal punishments imposed in the scandal will deter other companies from bid-rigging.

### ***Bid-Rigging by a Road Repair Company in Kanto District***

During the period from September to November 2011, the Kanto Branch of the East Nippon Expressway Company submitted competitive bids for eight jobs to pave roads damaged by the East Japan earthquake. Through successful bids, seven companies acquired seven jobs, of which the total amount was about JPY9,900 million. On March 24, 2016, the Fair Trade Commission entered and inspected eight road repair companies on the suspicion of the illegal restraint of trade; of these, five companies acquired jobs through successful bids (Asahi Shimbun, March 24, 2016). On August 1, 2016, the Fair Trade Commission decided to issue a cease and desist order to the eight companies. In addition, the commission decided to issue an order to pay an administrative fine totaling JPY480,290,000 to five companies that acquired jobs through successful bids. Because the companies did not present an excuse, the Fair Trade Commission issued these two orders on September 21, 2016. Because the scale of this scandal was smaller than that of the bid-rigging by road repair companies in Tohoku District, the Fair Trade Commission did not pass on the five companies to the Attorney General on suspicion of an offense of Article 3 of the Anti-Trust Law.

### **Bid-Rigging by Major Construction Companies**

On April 4, 2017, the Fair Trade Commission entered and inspected buildings of a Tohoku branch and head offices of 18 construction companies on suspicion of bid-rigging (Asahi Shimbun, April 5, 2017). In the subsequent days it entered for inspection the buildings of other 13 companies (Asahi Shimbun, April 6, 2017). The Tohoku Agricultural Policy Division of the Ministry of Agriculture, Forestry and Fisheries ranked 31 major construction companies as “A”; these were qualified to bid for jobs worth more than JPY200 million to restore damaged farmland. The amount of money paid for jobs related to this scandal was estimated to total about JPY50,000 million.

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<sup>21</sup> An officer in charge of bidding of Maeda Road Construction played a role of a mediator together with the officers in NIPPO, Nippon Road and Seikitokyukogyo. Therefore, judges gave the severer sentence to Maeda Road Construction than that to Gaeart TK and Kitagawa Hutec.

Much farmland was damaged by the tsunami. To restore it, local governments carried out construction, a portion of which the national government undertook through the Tohoku Division. Many retired high-ranking officials of the Ministry and its Tohoku Agricultural Policy Division were employed by major construction companies. Because those people could exchange information with former colleagues and officials working at the Ministry and the Tohoku Division, they might play a role as mediator in bid-rigging in this scandal. Research into this scandal by the Fair Trade Commission seems to continue.

## Summary

Conventional property crimes such as theft did not increase after the East Japan earthquake. A special type of a fraud and fraudulent business practices related to the East Japan earthquake *did* increase, however. Soon after the earthquake the mass media reported sporadically about cases of minor fraud committed by individuals. Swindlers and their groups ran rampant, especially with regard to remittance fraud. Fraud committed by members of Boryokudan were also exposed, which might be just the tip of the iceberg.

A special type of fraud was committed by taking advantage of the governmental subsidy systems in place to help sufferers and to restore damaged areas. This fraud was committed not only by individuals but also by organizations. It is not easy for law enforcement agencies to expose fraud by organizations because the border between legal business practices and illegal ones is sometimes ambiguous. However, they succeeded in exposing several fraudulent business practices after 2012.

To secure money for restoration enterprises, a special law was enacted on December 2, 2011, by which all people are obliged to pay a special tax for restoration enterprises for 25 years starting in 2013.<sup>22</sup> Companies that participated in fraudulent business practices and bid-rigging should be strongly blamed for committing wicked corporate crimes, through which they betrayed not only sufferers but also all taxpayers.

This chapter examined the responses of the Japanese government to a natural disaster—a major earthquake and a tsunami—that hit eastern Japan in 2011. Government agencies, including the police, and many people from all walks of life provided assistance to the victims of these catastrophic events. However, despite the government's efforts to prevent crimes related to the earthquake, this event opened the door for criminals to profit from others' losses.

This chapter examined predominant crimes such as fraud and corruption, as well as the factors that enabled companies and individuals to commit these crimes during and after the catastrophic events. The types of fraud that were the most prevalent included selling fake medical supplies, charging for the repair of property and never completing the repairs or completing jobs with substandard materials, stealing identities, making false claims to insurance agencies, creating fake investment schemes,

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<sup>22</sup>The amount of this special tax is 2.1% of all reported income.

embezzling relief funds and supplies, inflating the costs of goods needed in the relief effort, selling supplies and equipment and not delivering the goods, and collecting donations for victims but not delivering those donations to the victims of the disaster. A section of the chapter is devoted to the methods used by the Japanese government and service agencies to prevent fraud and corruption related to natural disasters.

### Discussion Questions

1. Discuss the reasons for the increase in crime, particularly various frauds, during and after a major natural disaster.
2. Discuss how fraudsters are able to use the fear of the victims of a major disaster to perpetrate their crimes.
3. What were the predominate types of fraud committed against women after the East Japan earthquake?
4. Discuss which categories of people (elderly, young, men, women, poor, rich) were most vulnerable to becoming victims of fraud after the East Japan earthquake.
5. What steps did the government and criminal justice agencies take to protect the victims of the East Japan earthquake from also becoming victims of crime?
6. Discuss various ways in which volunteers assisted victims of the East Japan earthquake.
7. Differentiate between fraud and corruption and discuss how the two can be connected in disaster situations.

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