

## *Follow the money*

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Much of our work on fraud cases centres on examining financial evidence to establish the extent to which there are legitimate destinations for funds where it is alleged that money has been stolen. In confiscation proceedings and money laundering cases, our focus tends to be in the opposite direction, i.e. to establish the extent to which a defendant's funds arise from lawful activities. This article draws on cases in which we have been involved to illustrate the distinction between flows of monies in different types of case.

### **Fraud cases**

It may be relatively easy to identify a legitimate *destination* for at least part of the funds allegedly stolen by a defendant. In a tax fraud case in which we were involved, we examined transactions between the defendant and the company he controlled and found that significant sums included in the Prosecution's computation of his taxable income had been paid out for business purposes. This resulted in a reduction in the estimate of the defendant's benefit from crime for the purposes of sentencing and subsequent confiscation proceedings.

Another factor which may be important in relation to alleged frauds is that employees with control over accounting records may amend them to meet corporate targets rather than to cover up thefts of money or goods. For example, a DIY store manager who was accused of false accounting and theft sometimes exceeded his sales target by the middle of a month and allocated some further sales in that month to the next month to increase the probability of reaching the next month's target. While this resulted in the manager's receiving a bonus that he may not otherwise have earned, his manipulation of the customer accounts was not necessarily carried out to conceal theft.

The extent to which a defendant benefits from the alleged offences is usually relevant to our work. In one case of alleged VAT fraud, we were able to show that the defendant had not obtained any financial benefit from his association with his co-defendants. In cases in which the defendant is accused of defrauding the tax authorities, it is likely to be necessary to identify sources of "legitimate" income. In a case in which various individuals were alleged to have set up "phantom" companies to over-claim VAT, one defendant was acquitted after forensic accountancy evidence



showed that payments into his bank account could be attributed to his business affairs rather than the over-claiming of VAT.

### **Confiscation proceedings and money laundering**

Our work in confiscation proceedings and money laundering cases often tends to focus on *sources* of income or cash: the approach in these cases is to carry out a careful analysis of the profitability of the defendant's business. In some complex cases it is also important to identify possible double-counting by the Prosecution. In a case in which we were involved, the defendant had been convicted of drug smuggling and faced confiscation proceedings. We reviewed his sources of income, including the profits of a cleaning business, board and lodging paid by a relative and the proceeds of his wife's participation in a chain letter scheme. This resulted in a reduction in the amount which the Prosecution had claimed was the proceeds of the defendant's criminal activity.

In another case, the defendant had established a foreign currency dealing business offering handsome returns to investors. The business was *de facto* a Ponzi scheme and investors were provided with fictional statements illustrating favourable returns. After the defendant was charged, we were instructed by solicitors to assist them with the representations to be made in Court in relation to his prospective sentence. On this basis, we were asked to consider the proportion of invested funds lost in trading relative to the amounts misappropriated from the business. A careful analysis of the trading undertaken by the business in relation to a sample of selected investors enabled us to identify that over 50% of the invested funds had been lost in trading activities.

### **Conclusion**

Forensic accountancy expertise in criminal work is not necessarily directed towards a consideration of accounting or auditing standards: it is often concerned with issues relating to the movement of cash. Although our approach varies according to the nature of the case, the essence of much of our criminal work is to analyse and present the accountancy evidence in a way which will help the Court to establish the magnitude and direction of the flows of funds.

*To obtain further details of our activities or to benefit from the firm's experience and expertise, please contact George Sim or Rakesh Kapila.*

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