

March 2009

Welcome to this newsletter which aims to provide you with interesting news and useful information on money laundering and related topics.

A NEW DAWN FOR THE SERIOUS FRAUD OFFICE?

On the morning of 6 October 2008 an announcement was made which generated no excitement at all - which was exactly the intention! Balfour Beatty PLC announced that it had come to a settlement with the Serious Fraud Office in connection with "certain payment irregularities" in relation to an overseas project completed in 2001.

Balfour Beatty had carried out its own internal investigation of the irregularities and self-reported the findings to the appropriate authorities, including the SFO, in April 2005 for further investigation. The SFO investigation determined that there had been a failure to keep accurate records within a subsidiary of Balfour Beatty in respect of the project. However the SFO concluded that no criminal proceedings should be commenced against any individual or corporate body arising out of the investigation and that the matter was suitable for civil resolution.

Since April 2008 the SFO, the Serious Organised Crime Agency, the Crown Prosecution Service, and the Revenue and Customs Prosecutions Office have been designated enforcement authorities with Civil Recovery powers under Part 5 of the Proceeds of Crime Act 2002. Prior to April 2008 only the Assets Recovery Agency (now part of SOCA) had such powers.

Balfour Beatty agreed to pay a sum of £2.25 million to the SFO in respect of a Civil Recovery Order, plus a contribution towards the costs of the Civil Recovery Order proceedings, in full and total settlement of the matter. The agreement expressly recognised that Balfour Beatty had acted promptly and responsibly in connection with the matter, had co-operated with the SFO throughout the investigation, and has taken appropriate steps to ensure no recurrence can take place in the future.

This settlement has clear advantages both for the company and for the SFO. The company, by conducting its own investigation, avoided the indignity (and adverse publicity) associated with a raid on its premises and the SFO rummaging through its filing cabinets, and suffered no criminal penalty. The SFO achieved a positive outcome, including £2.25 million in the 'tin box', in return for a minimum commitment of its own scarce investigative resources. Both the SFO and the

company benefited from a relatively swift resolution of the matter without a lengthy court hearing.

Richard Alderman, director of the SFO was quoted as saying, "This is a highly significant development in our efforts to reform British corporate behaviour. We now have a range of enforcement tools at our disposal, and a major factor in determining which of those tools is deployed will be the responsibility demonstrated by the company concerned."

In contrast to the serious difficulties the SFO has encountered in prosecuting major corporate frauds, could this type of DIY investigation and negotiated civil settlement be a new way forward for the SFO in appropriate cases?

GET IT RIGHT FIRST TIME !

Lawyers will understand that an appearance in the Court of Appeal is not an opportunity to re-run the Crown Court proceedings.

The point was again underlined this month in the case of **R v Farrell [2009] EWCA Crim 511**. Stuart Farrell had been convicted on two counts of conspiracy to supply controlled drugs. He was made subject to a confiscation order based on his 'available amount', which included the value of a property.

Mr Farrell had said in the Crown Court that the property in question had been sold to his parents some years earlier, but the judge had been unconvinced and had concluded that Mr Farrell in truth remained the owner of the equitable interest in the property.

On appeal Mr Farrell wished to bring forward additional evidence that he had sold the property, including a completion statement from the solicitors who conducted the conveyance, a copy of the mortgage offer and Land Registry entries in the names of his parents, and written statements from them confirming that he had no interest in the property. In addition his father was on hand to give oral evidence.

The Court of Appeal was told that Mr Farrell's solicitors had not informed him at the time that it would be desirable to produce this evidence at the Crown Court hearing.

The Court of Appeal were unimpressed. They found the application to be "wholly without merit". The confiscation order made in the Crown Court would stand.

BRIBERY BILL BEFORE PARLIAMENT

The government has published the Bribery Bill which is planned to update UK law on bribery in accordance with our treaty obligations.

One might think the law in this area is ripe for modernisation - the new legislation will replace offences currently found in the Public Bodies Corrupt Practices Act 1889 and the Prevention of Corruption Acts 1906 and 1916, as well as common law offences. At the same time the statute will apply a common code to UK bribery offences in the public and private sectors.

There will be statutory offences in relation to accepting a bribe, offering a bribe and, more controversially a new corporate offence of "negligent failure to prevent bribery" by people working for a business.

There will be a separate offence of bribing a foreign official.

The maximum penalty will be raised from seven to 10 years' imprisonment and parliamentary privilege will be removed to help investigations of politicians.

There remains, of course, the risk that this Bill may not reach the statute book before the next general election is called.

DON'T TRUST GEORDIE BOB !

David Burdett was a car salesman but perhaps not a particularly successful one. He thought that easy money might perhaps be made by cashing cheques and placed an advertisement for the service in his local paper. There was no response - except from 'Geordie Bob'.

Geordie Bob said he was in the process of divorcing his wife and had some cheques which he wished to bank without her knowing. Between June 2004 and June 2005 David Burdett banked cheques to the value of £338,000 for Geordie Bob.

In fact these cheques came from individuals, generally aged in their 80s and 90s, to whom Geordie Bob had sold household equipment at vastly inflated prices. Typically an item worth £100 had been sold for between £2,000 and £3,000 - sometimes 'extended warranties' had been added, taking the price towards £5,000.

Police enquiries into the fraud soon led them to Mr Burdett, but a search of his house and examination of his telephone records found nothing (apart from the banked cheques) connecting him to the swindle.

Mr Burdett was arrested and interviewed. He gave a full account of his relationship with Geordie Bob and even invited the police to a meeting he had already arranged with Geordie Bob. The invitation was not taken up. Instead Mr Burdett was charged with a money laundering offence.

Sadly Geordie Bob could not later be traced.

Was Mr Burdett an innocent abroad - as gullible as the elderly individuals who had fallen for Geordie Bob's patter? Or was he a money launderer who had turned a blind eye to any indications that the source of the funds he was banking was a criminal enterprise?

The Crown Court jury found him guilty of money laundering and he was sentenced to three years imprisonment - reduced on appeal to two years.

The moral of the story is - do no favours for 'Geordie Bob'.

If you require any assistance or have any queries concerning issues related to forensic accountancy, proceeds of crime or money laundering contact d.winch@AccountingEvidence.com or visit our website www.AccountingEvidence.com.

Kind regards

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