

October 2009

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

GOVERNMENT REVIEW OF MLR 2007

HM Treasury has announced a review of the anti-money laundering regime under the Money Laundering Regulations 2007.

As part of that review they are seeking the views of those who have to operate under the MLR on both how the regulations are designed and on how they work in practice. This call for evidence is open until 11 December.

Further details at www.hm-treasury.gov.uk/fin_crime_review.htm

SENTENCING GUIDELINE FOR STATUTORY FRAUD OFFENCES

The Sentencing Guidelines Council has produced a new mandatory guideline, now in operation, for sentencing in relation to statutory fraud offences.

This covers offences of fraud (section 1 Fraud Act 2006), benefit fraud (section 111A Social Security Administration Act 1992, section 35 Tax Credits Act 2002), false accounting (section 17 Theft Act 1968), income tax fraud (section 144 Finance Act 2000), VAT and duty fraud (section 72 VAT Act 1994, sections 50, 170 and 170B Customs and Excise Management Act 1979) and possessing, making or supplying articles for use in fraud (sections 6 and 7 Fraud Act 2006).

The guideline however classifies offences not by the statutory provision under which the offender has been charged, but by the type of activity. So it deals with confidence tricks under one heading, banking and insurance fraud under another, tax fraud under another, and so on.

The guideline notes that in some cases an offender may be entitled honestly to all or part of the money that is obtained following the fraudulent activity. In such cases the sentencing should be based on the amount to which the defendant was not legitimately entitled.

As a forensic accountant I am often asked to consider the legitimate entitlement of defendants and other mitigating factors in, for example, benefit fraud cases. That type of instruction may become even more frequent under the new guideline.

IN THE COURTS

There have been a number of interesting court cases recently.

It has been decided that the Financial Services Authority does have power to prosecute cases of money laundering and is not restricted to prosecuting only those offences listed in sections 401 and 402 of the Financial Services and Markets Act 2000, *R v Rollins*.

In *R v Bukhari* the Court of Appeal decided that it could repair confiscation proceedings that had been taken under the wrong statute. A confiscation order made under Criminal Justice Act 1988 was quashed but replaced by a similar order under the Proceeds of Crime Act 2002.

A voracious 'crash for cash' fraudster was jailed after admitting insurance fraud involving the staging at least 92 motor car 'accidents' - many of them on the same roundabout at Cheadle near Manchester. For a fee he would borrow your car, disconnect the brakelights, then drive it away and when in traffic would brake suddenly causing the following car to run into the back of yours. You could then claim on your insurance for damage to the car, hire of a replacement, and compensation for 'injuries', such as whiplash, claimed to have been suffered by yourself and your passengers. Interestingly the initial investigation was undertaken by AXA Insurance who prepared a dossier for Greater Manchester Police. Such co-operation between victim businesses and the police may become more common as police resources are stretched.

The Court of Appeal has also reviewed issues surrounding the admissibility of opinion evidence from experts in *Atkins v R*. The Court confirmed that it was acceptable for an expert to express his subjective opinion on the significance of his findings using a hierarchy of conventional expressions. In this case the expert had employed terms ranging from 'lends no support' through to 'lends powerful support'.

MONEY LAUNDERING TRAINING FOR ACCOUNTANTS

I have been working with Tim Good of Now Training to develop a new computer-based money laundering training module for accountants, which is accessible online. This offers a very cost-effective alternative for staff training on this topic, particularly for smaller firms. The module is now available.

Further information and downloads from tr.im/nowmltrain.

GOING DOWN!

Guatemalan and US authorities have seized a makeshift submarine carrying 10 tonnes of cocaine with a street value of US \$200 million. The five men found on board are likely to be 'sent down' for some considerable time.

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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Accounting Evidence Ltd are forensic accountants specialising in crime including theft, fraud, duty evasion, money laundering, Companies Act offences, and other criminal cases and related disqualification and confiscation proceedings. We are happy to undertake an initial review of any case on a no cost and no obligation basis.

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