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

FRAUD COSTS £30 BILLION ANNUALLY

According to a report published this month by the National Fraud Authority, an Executive Agency of the Attorney General's Office, fraud costs the UK over £30 billion per year. That is equivalent to £621 per adult per annum.

Inevitably this figure is estimated, but it is the most authoritative estimate which we have available for the level of fraud in the UK. The figures, which are predominantly based on 2008 data, reflect good co-operation from the public sector - estimated to account for £17.6 billion of losses - and rather more patchy responses from the private sector.

Tax fraud accounted for £15.2 billion of the total. Losses in the private sector included estimated £3.8 billion losses in financial services.

The NFA plan to repeat this quantification exercise annually in an attempt to measure trends in fraud losses.

IN THE COURTS

Once again there are interesting developments to report from the courts.

Ms Rahila Kausar owned a property in Stoke-on-Trent which she let out. A buy-to-let mortgage was obtained on the property via a broker. The information on the mortgage application regarding Ms Kausar's income was false and the signatures on the application form were forgeries.

When the fraud came to light Ms Kausar said that she had no knowledge of the information on the application form and no reason to suspect that the mortgage had been obtained fraudulently. Nevertheless she was charged with acquiring criminal property (the mortgage advance) contrary to section 329 Proceeds of Crime Act 2002. She was convicted and appealed.

The Court of Appeal held that the conviction must be quashed because Ms Kausar had, by signing a mortgage deed charging the property in favour of the lender, given "adequate consideration" for the advance. That being so, she could not be guilty of an offence under s329 whether or not she may have known or suspected that the mortgage application was fraudulent. [2009] EWCA Crim 2242

In another case Tiina Paivarinta-Taylor had been convicted in October 2006 of obtaining property by deception. In November 2006 she was fined £1,000 for the offence. In December 2006 she was made subject to a confiscation order in the sum of £35,635. But the legislation provides that a person shall not be fined BEFORE a confiscation order is made. The judge (and counsel) had overlooked this.

When the error was discovered Ms Paivarinta-Taylor appealed but the Court of Appeal upheld both the fine and the confiscation order. The Appeal Court considered that, whilst the letter of the law had been breached, the reality was that the defendant had in practice suffered no disadvantage from the matters being dealt with in the wrong order. Parliament had not intended, in these circumstances, that either the fine or the confiscation order should be invalidated by the breach. [2010] EWCA Crim 28

Finally we understand that the issue of alleged negligence by an expert witness is under active consideration. A witness in court proceedings is considered to be immune from claims of negligence in relation to their evidence in court and related matters. But how far does this immunity extend? An appeal on that point is working its way towards the Supreme Court and may be heard later this year.

ATTRITION IN CONFISCATION CASES

The Home Office have published a study into the outcomes of confiscation cases, focussing on the differences between the amounts ultimately ordered to be paid and the prosecution's initial estimates of the defendant's 'benefit'.

Unsurprisingly in many cases the amounts ordered to be paid represent only a fraction of the initial benefit figure. The arithmetic average 'benefit' figure was £289,000 but the average amount of orders made was only £41,000 or 14% of that figure. But these arithmetic averages give a misleading picture because they are heavily affected by a small proportion of cases of very high value. In the period studied, just 1% of the orders made accounted for 50% of the total amounts ordered to be confiscated.

In fact 45% of all confiscation orders made by the courts were for amounts of under £1,000. Typically in such lower value cases the figures of 'benefit' and 'available amount' put forward by the prosecution were accepted by the court and reproduced in the confiscation order.

Also in very many lower value cases the amount due was settled in full within the statutory six month time limit - often from cash already detained or from assets held under restraint.

However in larger value cases there was a different picture. In the largest single case examined by the study a prosecutor's 'benefit' figure of £197 million resulted in a 'benefit' of £148 million and an order of £28 million. There is no note of the amount actually paid in that case.

One thing is clear. Confiscation proceedings are being taken in very many cases which result in orders of between £1 and £1,000. One might question the wisdom of prosecutors in pursuing such a high number of low value confiscation cases.

COSTS IN CIVIL PROCEEDINGS

Lord Justice Jackson's final report on Civil Litigation Costs has been published. It contains wide ranging recommendations. We make no detailed comment upon it here because we deal only in criminal cases, but if you have an interest in civil litigation it is not to be ignored.

TAX RETURNS AND TAX EVASION

It is the season for submitting self-assessment income tax returns. Many accountants may have concerns about the accuracy and completeness of the information supplied to them by their clients and, leading on from that, worries as to whether they are obliged to report any suspicions under the Money Laundering Regulations.

There is an article "Money Laundering and Tax Returns" on my firm's website at www.AccountingEvidence.com. Although the article was written in 2006 it remains valid and worth a look.

NOT NOW I'M BUSY

It has been reported that President Obama has received a call-up for jury service in his home town. His response has not been published. Suffice to say that Chicago's miscreants will not face the shock of seeing their President in the jury box.

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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