



Money Laundering

Tracking the international path of illegal money

by Richard Cumming MIPI



The Professional Investigator

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Annual General Meeting

The programme for the event, to be held at the Civil Service Club, Scotland Yard on the 17th of October is as follows:

Programme

10.45 - 11.00: Coffee

11.00: **AGM**

followed by presentations by

Dave Humphries
SIA Director of Compliance,
Intelligence
and Communication
“Progress on Licensing”

Ray Clarke
Chief Executive Officer IQ Ltd
“Licensing and the IQ Level III
Examination”

12.30: **Principal’s Reception**

13.00: **Lunch**



Dave Humphries



Ray Clarke

**Please contact the IPI with your
booking and meal preferences as
soon as possible.**

This year’s fee of £35 per person is the result of hard bargaining by your Secretary General, and is all inclusive (no VAT payable).

Editorial

Members may recall the letter we wrote to the Home Secretary and Keith Vaz MP about the apparent delays in the introduction of the licensing for PIs that the Home Secretary and his committee promised in 2013. I reproduce it here.



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Rt Hon Theresa May MP
House of Commons,
London, SW1A 0AA

10 July 2014

Dear Mrs May

Regulation of Private Investigators ("PIs")

We feel it is an appropriate time to convey to you the frustration being felt by our membership regarding this matter.

To remind you of the past and future "milestones":

2 July 2012

The Home Affairs Committee - Fourth Report on Private Investigators stated:

14. *It should be possible to implement such a regime quickly after the creation of the new Security Industry Authority, by the end of 2013 at the latest. The Government should include a timetable for implementation in its response to this Report. In view of the repeated delays, on-going abuses and the risks we have identified, the Government should take action quickly. There is no need to wait for the Leveson Inquiry to report before work to set out the principles of regulation and registration begins. Early publication of a draft bill could allow for public and Parliamentary consideration of potential legislation alongside the Leveson report. (Paragraph 76)*

31 July 2013

The Home Secretary announced:

The regulation of private investigators will be introduced as quickly as possible and the new regime will begin next year.

Since then we have sought to keep our members updated on progress as these measures affect their livelihood and professional reputations. Our liaison with the SIA led us to believe that a proposed timetable for implementation was as follows:

April 2014

Commencement date for SIA accepting licence applications from individual PIs.

October 2014

Commencement date for the issue of such licences.

April 2015

Offence date for individuals to carry out activities prescribed in the Act without a licence.

October 2015

Commencement date for Business Licences for PI firms (We understood that this was separate to the timetable for Business Licencing of other SIA regulated activities).

April 2016

Offence date for PI businesses.

In conjunction with Industry Qualifications (IQ - a regulated awarding organisation) we have promoted SIA compliant courses to our members and others in the industry, and the Level 3 Award for Private Investigators (<http://www.industryqualifications.org.uk/qualifications/database/Quals/iq-level-3-award-for-professional-investigators-qcf>) is now in existence and has been achieved by a number of our members.

However, despite the above announcements, the mechanism for suitably qualified investigators to apply to the SIA for their individual licence is not yet in place.

I can only describe the above timetable as a "domino" type process where each stage depends on the previous being in place: and the first domino has yet to fall.

If the SIA does not commence issuing individual licences in October 2014, it is not reasonable to maintain the offence date of April 2015 and without individual licensing being in place it would be difficult to implement a regime to licence investigation businesses.

We are now in July and there is a groundswell of frustration within the industry that after all the clamour, innuendo and indeed accusations about the Private Investigation Profession we have responded with SIA compliant qualifications including two exams and a work portfolio - with nowhere to send them!

This uncertainty is also affecting our members ability to do business as, having read the news, potential clients are expecting an investigator to be licensed and it detracts from our credibility to try and explain why there is no such licence when the public see one attached to the arm of door supervisors every night of the week.

In short, when are the SIA going to open their doors to applications?

It is 13 years since the Private Security Industry Act came into being, and while we realised we were to be in the later tranches of licensing, I respectfully advise you that the SIA established its competency criteria in 2007. Seven years from 'ready' to not even 'steady' is a poor show - the UK won a World War in that timeframe.

Yours sincerely

Cc Rt Hon Keith Vaz MP
House of Commons,
London, SW1A 0AA

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On the 10th of August 2014 the reply left was received from the Home Office.

The Secretary-General has replied, pointing out what you all know and this clerk doesn't – the SIA set the standard in 2007 and reviewed it last year, while they also decided what the competencies and qualification criteria would be. And the SG also added that as one of the foremost parties consulted on the matter, we knew all this better than he did.

That said, in the cold light of day, what this letter does at least indicate is that it will be a criminal offence from late 2015, probably in keeping with the expectations laid down from rumour control early in July. That, at least shows promise as it requires the SIA to provide us with the opportunity to start getting licences BEFORE the pre-election purdah. Fingers crossed.



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Mr David C Palmer
The Institute of Professional Investigators
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July 2014

Reference: T9515/14

Dear Mr Palmer,

Thank you for your letter of 10 July to the Home Secretary about the forthcoming regulation of private investigators. Your letter has been passed to me to reply.

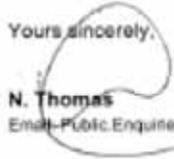
You have highlighted the Home Secretary's announcement on 31 July 2013 that the regulation of private investigators will be introduced as quickly as possible. Please be assured that the Government remains committed to introducing proper regulation of private investigators by the Security Industry Authority (SIA), to ensure rigorous standards in this sector and the respect of individuals' right to privacy.

Officials in the Home Office are concluding a review of the legislation relating to the SIA's licensing of this sector. This review has been necessary to ensure that it is appropriate and effective. Once this work is complete we will be clearer on a final timetable for roll-out of the new regulation. However, subject to Parliamentary processes and approval, we expect it to become a criminal offence to operate without an SIA issued licence during next year, 2015. The SIA will issue guidance on the nature of the specific activities which should be within the scope of regulation. It will also provide detail of the mandatory training qualification for the new regulation, as well as the application process, prior to roll-out of the new licensing requirement.

Finally, as the PSIA powers which relate to private investigations have yet to be designated as a regulated activity, there is currently no requirement for any individual to hold an SIA licence to conduct private investigations.

I hope that is helpful.

Yours sincerely,


N. Thomas

Email: Public.Enquiries@homeoffice.gsi.gov.uk



Elections to the Board

At the 2013 election three members of the Board were co-opted, having not been formally nominated and seconded in accordance with the legalities outlined in the last issue of the Professional Investigator. As such, their co-options formally cease at the 2014 AGM. In addition, in accordance with the Mems and Arts and Bye Laws of the Institute, one third of the remaining Board members had to resign and offer themselves up for re-election. As per the article in the Summer edition, nominations had to be received by the 15th of August.

No such nominations having been received other than for Brendan Tolan, Richard Cumming, Richard Bradshaw and Richard Lee, they are hereby elected to the Board as full members. Simon Smith and David Palmer represented the 1/3 of the remaining 5 Board members due to retire. However, Simon Smith was also formally nominated and seconded for re-election and remains a Board member. David Palmer was elected by the Board to the position of Deputy Principal, a Board nomination with a term of 3 years as of the AGM. As such he did not need a second, formal nomination and seconding for election to the Board. As such, as of the AGM, your Board will be as the table displayed right.

The IPI Board

Name	Office	Final Retirement Date
James Harrison-Griffiths*	Principal	AGM 2016
David Palmer*	Deputy Principal	AGM 2017
Brian Walker*	Treasurer	TBA
Richard Newman		AGM 2016
Brendan Tolan		AGM 2017
Richard Cumming		AGM 2017
Richard Bradshaw		AGM 2017
Richard Lee		AGM 2017
Simon Smith	Secretary-General	AGM 2017

*Board appointees

Those dates are provisional, in the sense that 1/3 of the Board must still offer themselves for re-election every intervening year, with the exception of the three officers, whose terms remain set.

The decision as to which members shall retire is initially based on desire, then the drawing of lots. If re-elected, their term starts again and (in time) it is hoped that a sufficient spread of terms will allow for clearer elections!

Sec Gen Update

Wikipedia

On the initiative of Board member Richard Cumming FIPI the Institute now has an entry pending on that source of information and accurate intelligence (sic), Wikipedia. Over time we intend to develop the entry with updates surrounding licensing. At the moment this entry is in Wikipedia's 'pending' box and we await its formal publication.

Legal Updates

New Law Officers appointed

The Prime Minister has appointed the Rt Hon Jeremy Wright MP as Attorney General, and Robert Buckland MP as Solicitor General. Your Principal has had the pleasure of being cross examined by Mr Buckland at Crown Court when he was defending some fraudsters. It was an amusing event, as he sat there smirking, making notes based on my disclosure schedule as I asked him, "Should I get a cricket box for my cross-examination?" In the event he tried, gosh he tried to make me out to be corrupt but I batted back everything he had in his armoury. There was also the point when the Judge decided against

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TRACING

An Investigators Guide To Finding Wanted and Missing Persons

By David C Palmer FIPI F.Inst.L.Ex

Investigations into tracing missing persons are taking place constantly - at professional and amateur levels, within and outside the legal sphere. They are done for a number of reasons, but the methodology is principally the same.

This book is intended to aid those whose work, or interest, lies in finding people. It is a guide to the methods and the legalities surrounding what can be very interesting work, the resolution of a puzzle which is not overly affected in its solving by evidential restrictions. It is also intended to address investigations into those persons who are lost either through time, or through a decision to go missing as a result of excessive pressures, legal, sociological and psychological.

It is not intended to find kidnapped people, or genuine 'missing' persons who have gone missing as a result of mental illness. In its pages, investigators will be provided with advice on how to solve the riddle of a missing or wanted person enquiry: the definitions which apply, and which may direct their enquiries; the techniques of asking questions and developing information from documentary evidence; details of resources that they need to utilise in order to solve their riddles; and much more besides. Such guidance is rare. The majority of books on this subject are published in the United States, with a bias towards their methods and availability of information - methods and information that simply aren't available to British investigators.

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him on a legal application and Mr B lifted his pile of books and slammed them back down, saying “This is manifestly unfair!” Suffice to say his client got 32 months.

Whiplash Claims

The fees for whiplash medical reports will be cut in the latest stage of the government’s plan to tackle insurance fraud and turn the tide on the growing compensation culture, Justice Secretary Chris Grayling announced today.

The change is part of a number of new measures to drive out dishonest whiplash claims – bringing down the amount being paid out unnecessarily by insurance companies on fraudulent claims and enabling them to pass on savings to honest customers.

It follows major government reforms to the laws around no-win no-fee deals, which the AA say has been responsible for a record £120 (19%) drop in the average motor insurance premium over the past year, shown in their newly released figures.

The new measures have been announced at the same time as more law changes to tackle the compensation culture are progressing through Parliament (in the Criminal Justice and Courts Bill). These include banning law firms from

offering incentives to potential clients and allowing the courts to throw out any compensation case where part of the claim has been proved to be fundamentally dishonest – to prevent people who have had an accident from exploiting the system by making bogus claims or grossly exaggerating the extent of their injuries. There are around half a million whiplash claims each year - and insurers estimate they add £90 a year to the average motor insurance policy.

From October the new rules announced today will mean medical professionals can only charge £180 for an initial whiplash report, reflecting the time taken to carry out assessments and write them up. Currently, prices of up to £700 are charged, leading to concerns that they are being used to generate profit.

At the same time several other measures will come into effect through new court rules, including:

Introducing an expectation that medical evidence will be limited to a single report, unless a clear case is made otherwise, and allowing defendants to give their account of the incident directly to the medical expert, when appropriate

Discouraging insurers from settling whiplash claims without a medical report confirming the claimant’s injury. In the past insurers have settled

claims without evidence in order to deal with them quickly – meaning some questionable claims are not challenged

Stopping experts who produce medical reports from also offering treatment to the injured claimant, to ensure there is no incentive for them to encourage unnecessary treatment.

(Source: Ministry of Justice website.)

Service of legal papers on the Scottish Government.

The Office of the Advocate General for Scotland has issued a document regarding service of process on government and Scottish government bodies.

The document is available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/232172/Serviceofdocuments.pdf

Data Law

On the 17th of July, it was announced that the Data Retention and Investigatory Powers Act 2014 had received Royal Assent. The Act, which comes into effect immediately, only maintains and

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clarifies the existing regime and does not create any new powers, rights of access or obligations on companies beyond those that already exist. (Source: Government website www.gov.uk)

Defamation Act 2013

The Defamation Act 2013 came into force on the 1st of January 2014 and was introduced by HMG to simplify the law in this minefield for writers, investigators and lawyers. The main objectives were and remain

- Protection for scientists and academics publishing peer reviewed material in scientific and academic journals;
- Protection for those publishing material in the public interest;
- A streamlined process to resolve the removal or changing of defamatory material put on-line;
- A single publication rule to avoid repeated suits for the same material being circulated by the same publisher;
- Action to address 'libel tourism' where overseas citizens exploit our system for outside libels; greater protection for secondary publishers, including booksellers and newsagents.

The full Act can be downloaded here: http://www.legislation.gov.uk/ukpga/2013/26/pdfs/ukpga_20130026_en.pdf

Taxation Cases

In *Rockall v HMRC* (2014) it was decided that articles placed at the disposal of staff, shareholders and officers of a company, even if not available for use in a private capacity, is still a taxable benefit.

In *HMRC v McLaren Racing*, it was decided that the fine McLaren paid for was not deductible and exempt from a tax liability (as desired by the company) because it was not incurred in the course of their trade, which exceeded the motorsport in respect of which the fine was imposed, and nor was it necessary for the tax to be deductible to preserve McLaren's trade for the same reason.

Those for the businessmen and women among you.

Changes to PACE – Code A – Stop and Search Powers

For those investigators who may use this power, or who may wish to comply with its spirit, the new

DRAFT code is available at <https://www.gov.uk/government/consultations/revised-pace-code-a> .

Draft Directive on the Reuse of Public Sector Information

This may be of interest to many investigators, and the document is available through <https://www.gov.uk/government/consultations/uk-implementation-of-directive-201337eu-on-the-reuse-of-public-sector-information> .

Draft Directive on Mutual Recognition of Professional Qualifications

This may have an effect on recognition of overseas investigative qualifications and may be something of concern and/or interest to licensed investigators of the future. The draft is available at <https://www.gov.uk/government/consultations/mutual-recognition-of-professional-qualifications-revised-directive>

Letters

Nope.

Education and Training Updates

On the 1st of August, three students took the Institute/IQ Level 3 Award in Investigations examinations at the Civil Service Club, and it was with great pleasure that we were informed the following week that all students passed, giving the IPI a 100% pass rate to date! The Secretary-General advises me that to the best of his knowledge, this is a trainer first.

Our congratulations go to Paul Christie, Sam Cooper and Hazell Reed for their results, a testimony to their efforts and to the quality of the IQ Foundation Course.

The students subsequently produced surveillance 'operation orders' to satisfy the IQ requirements, and will receive their certificates shortly.

Meanwhile, the Institute's Course has passed the 183 students mark.

SIA News

In the absence of any actual news, just a reminder that if you pay your own licence fee and are self-employed then you can get tax relief against your taxable income for the SIA licence fee - for example, if you pay the basic rate of tax the relief is worth £44.

(Source: SIA website)



Fellowship Award

The Institute is very pleased to report that Richard Cumming has been awarded a Fellowship of the Institute of Professional Investigators following successful submission of his Thesis, entitled "Money Laundering: How and Why Investigate". Richard demonstrated a high level of understanding of his 'craft', and included a practical example of how a money laundering investigation might be conducted. Our congratulations, Richard.

Paralegals – what are they and are they a ‘threat’?



The Chartered Institute of Legal Executives has recently announced that they are to conduct research into ‘the paralegal’, which they described as the term used to describe ‘the undefined member of the legal community of whom there are very many and yet about which the the market knows very little.’

The article went on to suggest that there are as many as 80,000 such traders, who use the term paralegal, one presumes, because they have no formal legal qualifications and as such cannot use the protected terms such as barrister, solicitor and Legal Executive. The Institute of Public Policy Research (IPPR) used the expression ‘medium-skilled professionals’ in their regard. When I read all of that the alarm bells rang.

In 2002(ish) I expressed and researched the opinion that people working for lawyers, who conducted licensable activity as defined by the PSI Act, would need a PI licence because, as things then stood, the exemptions in the Act only applied to lawyers as defined by S.27 of the Courts and Legal Services Act 1990 (CLSA) – specifically solicitors and barristers, and (one could argue) Legal Executives, because all had right of audience in the courts. The SIA conducted its own research with two legal advisers, and got two answers – yes they do, and no they don’t.

In my own articles I suggested that the Home Secretary could create secondary legislation that exempted such staff because they were already subject to oversight by the Solicitors Regulatory Authority (SRA), but to date I know of no such

action. Regrettably, the CLSA was replaced by the Legal Services Act 2007 and this has not been reflected in the PSI Act, which still refers to the CLSA.* The 2007 act (Schedule 2) refers to reserved legal activities as the right of audience and the right to conduct litigation. Having briefly reviewed that Schedule and the exemptions, I found this

Reserved instrument activities

3 *(1) This paragraph applies to determine whether a person is an **exempt person** for the purpose of carrying on any activity which constitutes reserved instrument activities (subject to paragraph 7).*

(2) The person is exempt if the person prepares the instruments or applications in the course of the person’s duty as a public officer.

(3) The person (“E”) is exempt if:

(a) E is an individual,

(b) E carries on the activity at the direction and under the supervision of another individual (“P”),

(c) when E does so, P and E are connected, and

(d) P is entitled to carry on the activity, otherwise than by virtue of sub-paragraph (10).

(4) *For the purposes of sub-paragraph (3), P and E are connected if:*

(a) P is E’s employer,

(b) P is a fellow employee of E,

(c) P is a manager or employee of a body which is an authorised person in relation to the activity, and E is also a manager or employee of that body.

On the face of it, this exempts the lawyer’s employee from committing an offence of conducting **lawyer related** regulated activity (litigation and right of audience restrictions) but unless and until this is recognised by the PSI Act the application to ‘us’ is not applicable. So my argument is valid unless and until that is done, or unless ‘employee’ is redefined to mean ‘contractor’ as well. Unless, of course, future research on my part discovers another ‘out’.

However, such a defence would not be available to a paralegal **contracted to** a lawyer, only an

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employee. A paralegal providing 'investigative (licensable conduct-type) services' under contract would (in my view) still need an SIA licence.

Schedule 2, Part 4, sub-section 9 defines a potential defence to unlicensed regulated conduct using the term "This paragraph does not apply to the activities of any person who carries out any inquiries or investigation merely incidentally to the carrying out of any activities which (disregarding this sub-paragraph) are not the activities of a security operative." I would argue that while some activities of a member of a lawyer's staff could occasionally use that defence, if they are asking questions critical to a client's case they could hardly say that those questions were ancillary to their business. If the paralegal was working for a lawyer under contract, such work would be a core business activity.

It would be my summation, therefore, that if paralegals lay claim to conducting licensable activity – specifically as defined by Schedule 2, Part 4, section 1, namely "*any surveillance, inquiries or investigations that are carried out for the purpose of:*

(a) obtaining information about a particular person or about the activities or whereabouts of a particular person; or

(b) obtaining information about the circumstances in which or means by which property has been lost or damaged."

then such a paralegal would need a licence.

Until someone decides otherwise. I sincerely hope that I do not discover another out and that the legislators do not create one, because if there is another defence for a 'paralegal' most unscrupulous PIs would simply change their job title. Just like I warned in 2002.

The Institute has registered its interest in the consultation in an effort to ensure that your concerns are addressed.

With regard to the exemptions for lawyers mentioned above The Institute asked the SIA to look at this issue to avoid abuse in the future. In an email, we asked, "Given that the PSI Act Schedule 2, section 4(4) defines legal practitioner exemptions as being covered by S27 of the Courts and Legal Services Act and this Act has been replaced by the Legal Services Act 2007, what action has the SIA taken or does it intend to take to address the issue, as the exemption may be abused if not properly understood?"

They replied, "I understand that your email may be in response to the Home Secretary's announcement last summer regarding the Government's plan to introduce regulation of private investigations (PIs). At present the Private Security Industry Act (PSIA) contains provisions for us to license private investigations. Our sponsor department at the Home Office is responsible for the PSIA and it is currently

carrying out a review of the PI specific provisions to ensure they remain fit for purpose. **This review would include, *I imagine*, cross-referencing of other legislation to ensure the terminology remains applicable.**

Following the completion of the Home Office review and confirmation about the scope of regulation we will proceed in drafting the PI licensing requirements, conditions, and any necessary supporting guidance. We will communicate the requirements to the PI sector in advance of the commencement of regulation. Any abuse of the licensing conditions would be pursued by our partnership and interventions team.

When we have more information on the regulation of private investigations we will publish that information and engage with the private investigations community."

This doesn't really answer the question except to say 'we're thinking about it, now you mention it!' And it leaves them with plenty to do by October...

Case Management

The **Chartered Institute of Legal Executives** has recently published an article in response to new impositions in terms of record keeping imposed upon solicitors – often your clients. While it is anticipated that most members observe these rules or others like it, and have case management systems of their own, in light of the nature of the CILEX article and as a reminder that some members – and particularly students – might not be so expert, we make no apology for plagiarising (sorry, providing the results of research) their article. The article is about compliance with Principle 8 of the Solicitors Code of Conduct and addresses fundamental administrative compliance.

The advice states that (investigators) should keep a record of what cases and clients they have dealt with, and the matters for which your services were requested. Of course, compliance with the Data Protection Principles, accounting/tax records and statute of limitations issues influence exactly how long detailed records can be kept, but a minimal record should be kept indefinitely – particularly these days, as criminal investigators in the police are so underworked they are investigating offences committed 50 years ago by dead people. (Sorry, that slipped out.) Such a record can be in the form of reference numbers and minimal detail.

Of course, the beauty of IT assists in this, and in retrieval of information as and when required. There are many case management software programmes in existence, but being adept at Microsoft Office (and other equivalent programmes) can be just as good.

Another reason for holding such data is so that you can use the information to guide you in business – where is your market, what is your business best at, where can you advertise and offer your services to best effect? You know what you need to know, make sure you record it so you can find out.



Store your files, but do so in lockable, fireproof cabinets. Review the files regularly

The Code and CILEX also support, as do we, the use of checklists when opening a file/investigation. Reliance upon memory to do all that needs to be done is a foolish methodology when your own, bespoke support system can take all that mental clutter away. Personal productivity trainer David Allen suggests that clearing the memory of routine (or indeed any 'list') opens up mental RAM for important stuff. I also means you don't miss something that can bite you in the future.

Copy all regulatory paperwork created for each client/case, and include it in the file as 'proof' (or merely support) of the fact that you sent it. Terms of business allows you to 'prove' whether or not you won the battle of the forms, where your terms apply because you sent the 'last' letter/version.

Store your files (duh), but do so in lockable, fireproof cabinets. Review the files regularly and in doing so ensure currency and prompt action where it is needed (e.g. invoicing!). Diarise relevant dates – I prefer a paper diary but if you have an electronic version and are familiar with it, use the alarms or associated prompts to make sure you are alerted to something when you need to be advised it is proximate.

When a case is concluded, make sure any paperwork, property, money etc. is placed in the appropriate place and with the right person. Have a set procedure or checklist for doing so. In the case of digitally held files and other data, **BACK IT UP!** (Control+S just then.) and be aware that if you lose unencrypted personal data, the Information Commissioner will fine you a lot, just because he can.

Money Laundering Investigation

by Richard Cumming FIPI

(Ed – this is a direct lift from Richard's successful Fellowship thesis and is reproduced here to assist readers in identifying what they need to do to achieve Fellowship themselves.)

In order to illustrate the life cycle of a Money Laundering investigation it is proposed to expand on the above chapter by way of a Case Study to demonstrate the stages and decision making processes involved in such an investigation.

Having read the foregoing chapters it will be appreciated that Money Laundering investigations are more likely to fall within the domain of Law Enforcement Agencies and therefore the following is also biased in this direction.

However, investigators may come across Money Laundering investigations in private practice, perhaps supporting a financial institution with such an investigation, in which case equivalent civil orders may be available and the principles are largely the same.

In any case, most of the investigative strategy employed in Money Laundering investigations is equally applicable in the investigation of Fraud and other economic crimes.

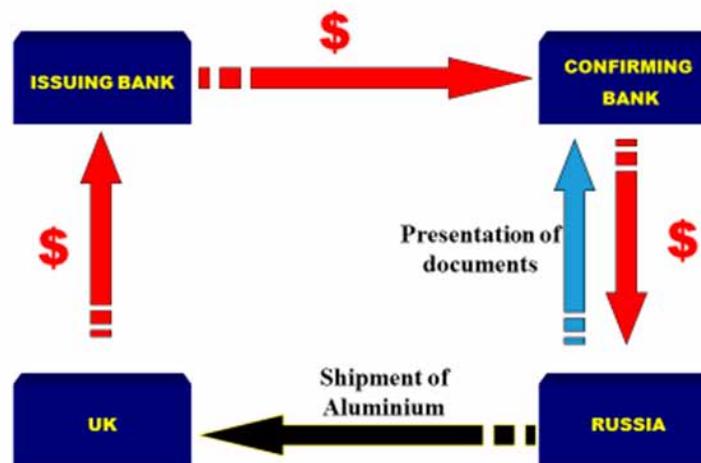
Most Money Laundering “per se” investigations (i.e. those not arising from the detection of a related offence) inherently arise from an intelligence source.

In our Case Study a “Confirming Bank” made a Suspicious Activity Report to Law Enforcement owing to the manner in which a Letter of Credit Transaction was being conducted.

Letters of Credit have been in use for many centuries and enable the seller or manufacturer to receive payment from the buyer before their goods reach the

destination. This smooths out cash flows and in the days of sailing ships enabled the seller to receive funds while the goods were still on the “high seas”.

In the example above, the buyer in the UK deposits funds with the “Issuing Bank” (or has a credit arrangement). The “Issuing Bank” has an arrangement with the “Confirming Bank” such that when the shipper presents



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documents to them to prove that the goods have been shipped (Bill of Lading, Inspection Certificate, Insurance etc.), funds are released to the seller.

This arrangement inevitably attracts charges so the seller may receive a discounted value for the goods but this is better than waiting for them to reach their destination and obviously assists international trade.

In this case the shipping documents were always presented to the “Confirming Bank” by an intermediary company in Guernsey who received the due payment. The transaction had occurred before and there had been no complaints of non-receipt of funds by the seller but the bank were suspicious about the arrangement and submitted a Suspicious Activity Report.

On initial receipt of the Intelligence which may be from a “Covert Human Intelligence Source” (CHIS) or Suspicious Activity Report, the Investigator should commence an Investigative Record to record investigative actions undertaken. At this stage of the case it is an intelligence development enquiry and may or may not result in the arrest and prosecution of suspects.

However, the investigator should always cater for the investigation becoming a prosecution and keep a record of all material accessed in pursuing the enquiry. At this stage of the investigation,

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IPI ‘Manual for Investigators’

A comprehensive guide to conducting investigations of many kinds

By David C Palmer FIPI F.Inst.L.Ex

Taking the reader from basic ethics through generic investigation methodology and finally to specific types of investigation, the Manual will show how to exercise basic administrative and operational practices so as to be able to mount and complete a high quality investigation for a client, or for the public.

Written by a practising and professional investigator, and starting with a ‘template’ methodology that causes the reader to think like a professional, the reader will find that the basic practices described in this book can be applied to any kind of enquiry. There is no other book like it! Many books describe ‘investigations’ but none are as thorough in describing the thought processes and operational needs behind an investigation. Its contents include instruction on

- dealing with clients
- preparing interviews of all kinds
- taking statements
- assembling and managing evidence
- writing reports
- tracing
- corporate enquiries
- criminal investigation from the prosecution *and* defence perspectives
- process serving
- traffic collision investigation

... and more.

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it may well be that the Intelligence acquired is deemed to be confidential and should therefore be ear-marked to appear on the Sensitive Material Schedule should the case proceed to court.

Subject to the potential size of the case it may be necessary to open a Policy Book to record decisions made concerning the handling of intelligence and other matters or alternatively the Investigative Record may suffice.

Having assessed the initial intelligence, the investigator may decide to initiate further intelligence development or move to the gathering of evidence or a mixture of the two.

In our Case Study it was decided to move to the evidence gathering stage and Production Orders were served on “Confirming” and “Issuing” banks, both of which were in the UK. The payment pattern above was confirmed and bank statements together with underlying documents were produced and referred to in statements of evidence from the two banks.

Often in Money Laundering cases, the money trail crosses several different countries and investigators should be familiar with the procedures for obtaining evidence in other jurisdictions. This requires early liaison with the prosecution lawyers (CPS or SFO) or in the less likely event of a case in the private sector, the client should be advised of the need to consult lawyers with experience of international law and

the measures available in such circumstances.

In our Case Study, a Letter of Request was submitted to the authorities in Guernsey and surprisingly the Guernsey company had not been remitting the funds to an aluminium shipper in Russia but to another intermediary company in Monaco.

Enquiries in other jurisdictions are often time consuming and having received evidence from Jurisdiction “A” it often leads to Jurisdiction “B” rather than immediately solving the case.

In our Case Study, a further Letter of Request was submitted to Monaco seeking details of the receipt of funds from Guernsey and their onward destination. Eventually it was established that the funds were being remitted to a company connected with the buyer of the aluminium in the UK.

Hence it appeared that there was in fact no aluminium being shipped from Russia and the shipping documents presented to the “Confirming Bank” were all forgeries to enable the release of funds to the Guernsey company and hence the Monaco company. The company in the UK was apparently sending funds around this financial “Merry-go-Round” on the pretext of buying aluminium from Russia but in fact receiving the same funds back minus bank charges – a sophisticated Money Laundering operation.

The task of the investigators was to establish to what extent the various parties realised that this was a completely fabricated chain of international trades.

When there is sufficient evidence in the hands of the investigator to justify arrest of the suspects and search of their premises, it is necessary to draft a comprehensive Operation Order and to deliver an in depth briefing to the Arrest and Search Teams. It may be helpful to consider the following points when planning such action:

COLLATERAL DAMAGE

When dealing with companies (or individuals) in the public eye it is necessary to remember that a search warrant is not a guarantee of guilt. The image of police vans parked outside business premises with investigators emerging from the offices and loading the vans with evidence bags is not something that will have a positive effect on the company’s share price. In extreme cases this could cause the collapse of a publicly listed company and losses to pension funds and public investors.

The same applies to individual’s reputations – who can forget the dialogue between Kevin Maxwell’s wife Pandora and the police who arrived on their doorstep at 06:35 on 18 June 1992?

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It was fast and farcical. A bleary-eyed woman in a floral dressing-gown threw open a first-floor window, glared at the burly pair on her doorstep, assumed they were reporters, and let rip.

“Piss off,” she bellowed, as motor-drives whirred frantically from the street below. “We don’t get up for another hour.” and threatened to call the police. “We are the police” two detectives replied. Such was the Maxwell house’s entry into media legend.

The woman at the window was Pandora Maxwell and, as she discovered, the men at the door weren’t reporters, but detectives, making an early start on the business of arresting her husband, Kevin Maxwell.

(Kevin is the younger son of the tycoon Robert Maxwell, whose mysterious death in 1991 led to the uncovering of a pensions scandal at his Mirror newspaper group)

This caused some embarrassment for the SFO at the Maxwell’s’ trial but 22 years later in 2014, one can imagine the Human Rights issues arising from the investigators failure to take such collateral damage into consideration – or worse the claim that the media were “tipped off” by the authorities.

In our Case Study, the UK Company was a publicly listed company at the time the investigators were gathering evidence to establish the facts of the case. Had there been no prosecution, the company would



Who can forget the dialogue between Kevin Maxwell’s wife Pandora and the police who arrived on their doorstep at 06:35 on 18 June 1992?

have been severely damaged by the images of police removing evidence into awaiting vans. Hence the warrants were executed in a low key fashion with un-marked vans being parked in discreet loading bays as opposed to outside their busy offices.

FURTHER FINANCIAL INTELLIGENCE

Appoint an experienced Financial Investigator as part of the search team to focus on gathering financial intelligence. Financial Investigators are trained and experienced in the location and seizure of assets and may be able to obtain intelligence to assist the case in identifying assets for future Confiscation Proceedings and/or to demonstrate a criminal lifestyle. For example bank statements, credit card statements, telephone bills, utility bills, receipts etc. It may not always be necessary to seize such documents but a note can be made for future reference.

SEIZURE OF DOCUMENTS

To state the obvious, offices usually contain thousands of documents. At the time it may seem the easy option but it is too onerous to indiscriminately seize everything you can lay your hands on. Firstly, they may not be covered by the Warrant or other authority to search and secondly they all have to be logged and reviewed. Far better to focus the search on evidence to prove the alleged offences even if it takes a little longer. This is another area where an experienced

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Financial Investigator may be able to guide the search team. Section 51 seize and sift power?

PROFESSIONAL ADVISOR

Also consider seeking the assistance of a 3rd party advisor to accompany you on the search (they may have to be named on the Warrant). For example, if searching a lawyer's premises it is often extremely helpful to have another lawyer as part of the search team, likewise for accountants and other professionals. They are likely to be able to refine the search down for particular types of files and to give advice on what should and shouldn't be there. If your investigation team is using the services of a forensic accountant they should be included in the search team irrespective of whether the subject premises are those of an accountant.

Remember that when there are allegations of Money Laundering and/or "Hawala" or underground banking there are likely to be two sets of books and records: one for "clean" business and the other for "dirty" business. It is in such cases where a professional can be invaluable in divining the illegal books and records.

COMPUTERS

This is probably the most important part of the search and the topic could account for a thesis in its own right. Guidance is available in the IPI Manual for Professional Investigators and for all searches in respect of Money Laundering and

other financial crime in particular, it is essential that a qualified person be present for this purpose. Be prepared for the suspect or his/her lawyer to make representations about images of the complete hard drives of computers being taken on the basis that you are effectively taking the whole "Filing Cabinet" rather than the "Relevant Drawer". This can be resolved at a later date but if the evidence is indivisible it has to be seized. A recent court decision was that the computer is a 'thing' and seizable in its own right, the content is part of it. An unusually sensible argument. As a result of which they all suddenly contain legal privilege which slows down the investigation but doesn't stop it.

INTERVIEWS

Again the Guidance contained in the IPI Manual for Professional Investigators is particularly pertinent for Money Laundering and other financial crime interviews.

It is essential that interviews of this nature are properly planned and the P.E.A.C.E. mnemonic is a useful way of structuring the interview with an emphasis on the "P" for Planning.

- Preparation and Planning
- Engage and Explain
- Account
- Closure
- Evaluation

It will be appreciated from the foregoing chapters that once "Placement" has been achieved, interviews with Money Laundering suspects is likely to be with the "Professionals" engaged in the Money Laundering chain.

A well-known axiom used by barristers is "Never ask a question that you don't already know the answer to" It is not suggested that the Money Laundering investigator adopts this approach in all his/her questioning but being prepared for an interview with a Professional (e.g. bankers, lawyers, accountants etc.) will pay dividends. For example, research the interviewee's professional anti money-laundering guidelines and their role in the business.

Then, when it comes to the interview, move on to the "Engage and Explain" phase and establish the essential rapport between interviewer and interviewee and thereafter the "Account" phase which will usually be where most information is obtained.

Before getting to the specifics of the case, explore with the interviewee their experience, qualifications and what money-laundering training they have received. Ask them what they understand their professional anti money-laundering guidelines to be (which you have already researched), get them to explain their role in the business and how the business operates its own money-laundering policies

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and systems including the Due Diligence and Know Your Customer (“KYC” and “KYCC” – Know Your Customer’s Customers) procedures. Professionals are often more willing to talk during an interview than career criminals, particularly on general experience and policy matters as they sometimes tend to think they can outwit the interviewer.

Start to focus on the interviewee: has he/she ever been disciplined for breaches of the above policies? Has he/she ever made Suspicious Activity Reports (“SARs”) in the past?

Then move on to the specifics of the case. How was the client introduced to the business and what identity checks were made? What was the stated source of their wealth and how was this checked? How were instructions given and contact maintained?

Now is the time to focus the interview on what knowledge or suspicion the professional had or should have had. You can use the previous answers on experience, training etc. to undermine or contradict assertions that the Professional had no knowledge or suspicion that Money Laundering was taking place.

In our Case Study, there were convictions for offences including Money Laundering and the principal received 7 years imprisonment. It also transpired that the “Confirming Bank” had been paying discounted value prior to

maturity to Guernsey before receipt of the funds from the “Issuing Bank” on the maturity date (an accepted practice). In doing so they had left themselves exposed by over \$100 million had the “Merry-go-Round” stopped before they were put in funds by the “Issuing Bank”. As a result of the investigation it was possible to ensure a managed “run-down” of the circular funding to protect the innocent parties.

ipi.org.uk at a glance

Surveillance is the most searched for expertise

When people visit the Institute’s website to look for an investigator the most popular area of expertise looked for is surveillance. Below is a brief summary of what people were looking for on www.ipi.org.uk over the past month. The results cover the period 10 August to 9 September 2014 and are based on unique visits.

Most searched for expertise

1	Surveillance
2	Fraud investigation
3	Tracing
4	Computer Forensics
5	Litigation Support
6	Accident Investigation
7	Intellectual Property
8	Insurance Investigation
9	Lie-detection
10	Theft Investigation

If you specialise in any of these areas and they are not listed on your IPI directory entry then your business would not have appeared in the search results. That just appears to be a wasted opportunity.

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