

## ASSET TRACING

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- Over the past seven years there has been a significant increase in the number of corruption or asset tracing investigations undertaken. There are many reasons for this, not the least of which is the international attention being focused on government and business integrity.
- If the various international initiatives against corruption ranging from the OECD effort to the OAS treaty are minimally successful, there will be an even greater number of corruption cases pursued.
- No two corruption or asset tracing investigations are the same. However, there are typically enough similarities to establish a pattern. And once you recognise a pattern, you can formulate investigative plans, which reflect past experiences.
- I am going to walk you through a practical guide to tracing assets. Some of you will find this case experience somewhat rudimentary and to those I apologise. However, I wanted to present a practical and clear example which is based on real life experience - - and not all corruption or financial crime cases are complex.
- In this case, the briber is a multi-national firm which bid on a \$450,000,000 contract to supply military equipment to a developing country. The person accepting the bribe is a minister whom we will call Minister X and who had final sign-off authority on this particular contract.
- You, as the responsible anti-corruption investigator, have received the allegation that Minister X took a multi-million dollar bribe on this contract and parked the funds offshore.
- The contract was completed 18 months ago and according to your reliable source, the minister received 10% of the total value of the contract through, of course, a middleman working for the multi-national firm.
- Quiet initial review of the procurement procedure raises your suspicion because the lowest bidder did not win and, the bid specifications were slanted toward the winning bidder.
- Assuming you have the independent authority and staff (a rather large assumption) to pursue the matter here are the steps to take:
- Begin by examining in minute detail the lifestyle of Minister X. We sometimes call this a net worth audit. You must try to determine the legitimate sources of income and/or personal wealth of the minister and his immediate family.
- Plan to collect records and begin listing potential interviewees. The record review should include, but not be limited to, expense (and particularly travel) records, telephone records (pay attention to those overseas calls), look at his rolodex and see if there are business cards from bankers or lawyers or stockbrokers. Get property records, bank records and credit card receipts. Do not limit this search to the minister but, where appropriate, include family members.

- Do not overlook computer based files and importantly, email records. People seem to think that their computer based information is invisible. But, be cautious, let computer forensic experts examine the computer. Even the simple act of turning on the computer may delete evidence.
- After the analysis of records you will be better prepared to initiate interviews. I have found the best interview method is to spare no one and start from the bottom-up. Sometimes the mail room clerk or the secretary can provide a very important piece to the puzzle. Again, concentrate on lifestyle but at the same time build a list of new leads -- friends, girl or boyfriends, golfing buddies, business associates (both past and present).
- While this is proceeding, do not forget the multi-national firm and their consultants. If you can seize their in-country records and interview their personnel, do so. Seek co-operation from their home office.
- In over 90% of the cases we have been involved in, the records review and preliminary interviews turn up a solid lead or sometimes a thread of a lead to offshore activities.
- In the case of Minister X, we find that he has travelled to Europe and on three occasions to the United States. All within the last 18 months. It is unclear where he travelled in Europe but in the U.S. he went twice to Miami and once to New York. We also have learned that the minister's daughter attends a university in Miami.
- The United States has a wide variety of records that are publicly available. In fact, there are relatively inexpensive service companies which will do these record checks for you. Access to these records may reveal if Minister X or his family members own property in the U.S. or if they have a business interest there. Or if they have been involved in personal or business litigation.
- We found that the minister's daughter is living near the university in a condominium. This was found by simply checking the telephone directory. Further, property records show this condominium being owned by a New York company formed about 12 months ago.
- A review of records in New York state show that the corporation is registered through an agent but has a local address in Manhattan which turns out to be a residential building.
- Discreet inquiries at the building's rental office shows the apartment to be rented in the name of the corporation but the resident happens to be the brother-in-law of Minister X. You also find out through corporate record checks that the corporation's bank is the Smith Bank of New York.
- Other record checks show the brother-in-law without employment and in frequent contact with Minister X.
- You now know of a relationship with Smith Bank. The question is put to the Minister and his daughter but they are not talking -- nor is the brother-in-law. Since you have not charged the minister with a crime, you are unlikely at this stage to get co-operation from U.S. law enforcement authorities.
- Perhaps now is the time to consider a civil action and generate a subpoena for the bank records at Smith Bank as well as the records of the brother-in-law and the NY corporation. The standards for civil process are typically less restrictive than criminal action.

- Let's assume you are successful and get the bank documents and they show a balance of \$65,000 and also show transfers from a Swiss bank account. You also are provided with information that Minister X has a credit card issued by the bank with the charges paid for out of the same account. You now have those charge records which show over \$100,000 in charges for jewelry, clothing and other items.
- Now you also have some alternatives, to continue to move civilly in the U.S. and/or through the criminal process in your home country; to seek U.S. and Swiss law enforcement help; perhaps to make application in Switzerland to freeze the account pending movement for recovery.
- I have used an example that provides an easier road to go down. Had Minister X placed his assets in a country with little in the way of public records access and with a less user friendly legal system, our task would have been harder.
- Harder but not impossible. Given the world-wide attention to the crime of bribery and the associated crime of money laundering, we are now seeing a much greater willingness to co-operate from governments and financial institutions.
- This is where we can make real headway in the fight against corruption. The purpose of taking a bribe is not only to gather material wealth, but to be able to use it. And as it becomes more difficult to hide and use stolen assets, the risk to reward ratio changes.
- As the risk rises, fewer people will be willing to take the chance.