

Anti-Corruption Network for Eastern Europe and Central Asia

EXPERT SEMINAR

“INVESTIGATION AND PROSECUTION OF CORRUPTION: FINANCIAL INVESTIGATIONS AND LINKS WITH MONEY LAUNDERING”

Kyiv, Ukraine, 28 – 30 June 2011

PROCEEDINGS OF THE SEMINAR



Organisation for Economic Co-operation and Development

ANTI-CORRUPTION NETWORK FOR EASTERN EUROPE AND CENTRAL ASIA

The Anti-Corruption Network for Eastern Europe and Central Asia (ACN) was established in 1998 to support its members in their fight against corruption by providing a regional forum for promotion of anti-corruption activities, exchange of information, elaboration of best practices and donor coordination.

ACN is open for countries in Central, Eastern and South Eastern Europe, Caucasus and Central Asia. The OECD and EU members, international organisations, multilateral development banks, civil society and business associations also participate in its activities.

The ACN Secretariat is based at the OECD Anti-Corruption Division. The Secretariat is guided by the ACN Steering Group and reports to the OECD Working Group on Bribery.

This document was prepared by the OECD Anti-Corruption Network for Eastern Europe and Central Asia Secretariat in August 2011. You can also access it online at www.oecd.org/corruption/acn

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Confederaziun svizra

Federal Department of Economic Affairs FDEA
State Secretariat for Economic Affairs SECO



This seminar was made possible thanks to voluntary contributions provided to the ACN Work Programme by the United States, Switzerland and the United Kingdom.

Introduction

The OECD Anti-Corruption Network for Eastern Europe and Central Asia (ACN) seminar “Investigation and Prosecution of Corruption: Financial Investigations and Links with Money Laundering” took place on 28 – 30 June 2011 in Kyiv, Ukraine.

The seminar brought together 64 participants, mainly investigators and prosecutors from ACN countries, as well as from selected OECD countries representing national authorities in charge of investigating and prosecuting corruption-related and money laundering offences. Selected representatives of Financial Investigation Units (FIUs) and other responsible public bodies dealing with corruption and money-laundering or financial investigations were invited. Representative of Ernst & Young (CIS) also attended the seminar.

The seminar aimed at sharing practical experience and good practices among law enforcement officials involved in investigating and prosecuting corruption offences in Eastern European and Central Asian countries and other invited countries, as well as fostering networking.

This seminar was a follow-up to the ACN seminar in Bucharest in October 2010 and covered those areas that have been identified as most challenging by participants of seminar in Bucharest.

This seminar focused on the following themes:

- How to conduct successful financial investigations, including using proactive techniques;
- How to investigate complex corruption cases involving money laundering;
- How to ensure effective cooperation and exchange of information between competent authorities, in particular law enforcement bodies and FIUs.

The seminar included expert presentations, country case studies, discussions and working in groups.

These proceedings contain a summary of the discussion, all the presentations made during the seminar, a summary of the agenda and the list of participants.



Seminar participants, Kyiv, Ukraine, 28 June 2011

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Summary of Discussions

This seminar was organised in the framework of the ACN peer learning programme as a follow-up to the seminar “Effective means of investigation and prosecution of corruption” held by the ACN on 20 – 22 October 2010 in Bucharest, Romania. This summary outlines the main issues discussed at the seminar in Kyiv.

Financial investigations

Financial investigations are an effective and proactive tool to investigate and prosecute economic crimes. They allow collecting evidence in corruption investigations. Prosecutors and investigators in Eastern Europe and Central Asia have relatively limited experience in this field. Therefore, at the seminar in Bucharest it was suggested to explore it further. Presentations by prosecutors from the United States and an agent from the US Internal Revenue Service Criminal Investigations (IRS) about cases from their recent practice showed how financial investigations and other proactive methods helped to uncover and prove corruption crimes in the public sector. Other tools used to investigate economic crime and corruption were discussed. Joint multidisciplinary investigation teams involving law enforcement authorities, other competent public bodies, experts and specialists in different fields of activities were presented by a prosecutor from Lithuania as one of such tools. Forensic accounting as a tool to support law enforcement authorities to uncover corruption was presented by a representative of Ernst & Young (EY).

These presentations, followed by working group discussion, addressed the following issues:

Financial investigations as a tool to detect corruption. As already stressed during the seminar in Bucharest, tracing movement of money and other assets is key to uncovering corruption. This is the cornerstone of financial investigations. Various methods and approaches used to conduct financial or asset investigations were presented based on experience in actual corruption cases. Presentations and discussions focused on sources of information on assets. A key source of information remains bank information. Besides, movements of money are traced using databases and registers (for example, registers of enterprises, data of stock exchanges), disclosure forms (asset disclosures, financial and tax statements by public officials and other persons) and available information about salaries, income and spending (bills, expense reports). It was stressed that key to financial investigations is to conduct a thorough, combined analysis of these documents.

A case presented by the IRS was started after information was uncovered through an audit. Important role was played by analysis of bank and other financial records that helped to trace movement of money and identify involved persons. In particular, this analysis showed suspicious wire transfers to car dealerships, a jewelry store, mortgage company, etc.

In other cases corruption was confirmed comparing amounts of money received and amounts reported to tax authorities, analysing changes in assets of third persons linked to the suspects. At the same time, an example from Lithuania demonstrated that results of the financial investigations are not always accepted by court as evidence, which was the case when tax authority investigated into assets of a third person, but the court did not accept this considering that there was no direct evidence.

Presentation of Ernst & Young showed how important the analysis of accounting information, contracts, bills and other documents of business entities can be. When looking into books and accounts of enterprises attention should be paid in particular to various commissions paid, consultancy agreements, reported expenses and advance payments, suspicious groups of transactions, transactions with securities.

Use of open-source information. Numerous examples from practice were discussed when evidence of corruption was found through analysis of publically available information. The main source of such information is internet and the mass media. Various publically available databases, disclosure forms of public officials, tax forms and disclosed corporate information represent a valuable source of information. In a criminal case on corruption in the United States financial disclosure forms of public officials required by the Ethics in Government Act provided prosecutors with information on gifts received, including by spouses and other relatives, travel, income and liabilities. It had constituted an element of proof of corruption and misuse of public funds. Other disclosure forms in the United States, such as travel disclosure form, conflict of interest disclosure forms, lobbying disclosure forms have also constituted elements of information. In another case, which involved elected officials, public information gathered by the US Federal Election Commission was used. Newspaper articles and press releases are also an important public source of information. In one of the presented corruption cases information from a press release and data from publicly available travel disclosure form of a public official was used by prosecutors in interviewing him. It allowed proving that he had used this official trip for personal purposes, and this was used as an element of evidence in this corruption case. Representatives from ACN countries also mentioned cases when bribery was uncovered based on open source information.

Use of information from electronic means. On many occasions the use of e-mails (official and private) and other forms of electronic communication was mentioned as an increasingly important source of information. In a corruption case in the United States an e-mail exchange contained crucial information proving corruption facts that were otherwise denied by defendants. In the case investigated in Lithuania information received through electronic means was also highlighted as very useful.

Thorough background checks of public officials. It was noted that it is of key importance to follow the changes in lifestyle of public officials that are investigated for corruption, as well as persons connected with them. It was suggested to look for signs of prior misconduct or unusual conduct. An example was mentioned where it appeared that the corrupt official had earlier abused his sick leave and received a sanction for a conflict of interest. Signs of unusual conduct

could include lack of motivation at work, unusual spending, etc. To conduct proper background checks it is also necessary to analyse movements of money on bank accounts, credit card payments, loans taken, phone calls, trips, meals and drinks covered or offered for free, etc.

Use of proactive undercover techniques and investigative means. As in previous seminar, cases discussed by prosecutors and investigators show that undercover operations and classical investigation techniques, such as interrogation and house search, remain a prominent tool to uncover corruption, if combined with financial investigations/or asset analysis and analysis of public information. However, in cases receiving broad public coverage it is less efficient. Many presenters pointed out significant role played by undercover officers and various special investigative means. The discussion showed that it is crucial to provide adequate powers to criminal investigators tasked to uncover corruption, in particular, to use wiretaps, conduct house searches, and receive court permissions to intercept electronic communications, obtain bank information and phone records.

Key role of cooperating witnesses. Significant role of witnesses co-operating with investigators and prosecutors, but also difficulties that prosecutors are facing to make them cooperate were discussed. It appeared that this technique is particularly important in the United States, where plea bargaining agreements with prosecution are used as a leverage to obtain co-operation and evidence.

Importance of a comprehensive approach. Not a single tool, but a combination of the mentioned investigative methods and approaches can help to effectively uncover and prosecute corruption. It is important to use every investigative technique available and also every law available, not only specific bribery laws. It appeared that a comprehensive approach is needed to investigate and prosecute corruption effectively combining a variety of methods from gathering and looking into public and non-public documents to surveillance, collaborating with witnesses and others.

Bribery and ways to misuse public money become more sophisticated. The seminar showed a great variety of forms of bribery and ways to misuse public money. In discussed cases officials received bribes or misused public money in a variety of forms, including expensive watches, an airplane, computers, weapons, a prescription for narcotics, business class plane tickets, expensive cars or personal restaurant charges, bar bills, dry cleaning. While money or material benefits remain the most common gain, non-financial, non-material and indirect benefits become increasingly common. For instance, officials received as bribes gift cards in shops and access to schools for their children, no-return loans, loans to relatives, operations with financial instruments, shares to affiliated persons, possibility to purchase various goods at reduced prices, rights (to property, cars, etc.), promotion at work. Various techniques are often used to hide bribes and illegal incomes, such as division of contracts in “official” and “unofficial” parts, exchange of services or use of “black books” by companies. A rather typical example was mentioned by Estonia where a public official provided a public contract and got in exchange a reduction in purchasing of building materials by his wife.

Increasing role of multidisciplinary teams in investigating corruption. In many countries multi-disciplinary teams are created to investigate and prosecute corruption crimes. Lithuania presented a case of investigation of illegal financing of a political party currently on trial by a multi-disciplinary team. The team was led by a prosecutor and composed of prosecutors and investigators, as well as various law enforcement bodies (National Security Authority, Service for Investigation of Financial Crimes, Specialised Anti-corruption Body and the Criminal Police). During such team investigation each agency could perform functions when it has the best experience and specific powers. For example, the Service for Investigation of Financial Crimes conducted analysis of financial and economic records of the political party and related enterprises and seizure of such documents. Experts analysing electronic data gathered key evidence to prove that political party systematically received illegal funding. An investigator would probably not be able to do it on his own. It was also pointed out by presenters from United States that cooperation between investigators and prosecutors play a key role in the United States too, where Anti-Corruption Prosecution Teams and investigative agents conduct investigations into corruption. Financial investigations presented by the IRS were also led by a team – the Global Illicit Financial Team, - which involves a variety of law enforcement bodies, as well as, for instance, Department of Energy, US Treasury, US State Department, Inspector General. During the workshop it appeared that many ACN countries also use various forms of investigative teams (in Moldova, Latvia, Georgia, Poland). Some countries mentioned practice of involving or asking for opinion from tax authorities and customs rather than involving them on a permanent basis.

Use of independent expertise and specialists. Investigators and prosecutors in both OECD and ACN countries use independent expertise to gather and analyse evidence in corruption cases. The presentation of the case investigated in Lithuania involving illegal financing of political party showed how due to lack of necessary knowledge in the law enforcement authorities, a group of specialists was created to determine, which materials can be considered political advertisement. This group involved the Inspectorate of journalists' ethics, Ethics commission of journalists, State service on protection of rights of consumers, TV and Radio commission and Election commission. This case is considered a very good example how prosecutors together with other pre-trial investigation bodies and other specialists achieved significant results, also in a relatively short period of time, with charges presented against several natural persons, as well as a legal person (political party). Two other examples of involving non-public and non-law enforcement experts were mentioned during the workshop: an investigative team involved experts on construction market and banking sector in Kazakhstan in order to establish market price of services and determine cost-efficiency of a tender; specialists in different branches of industry (for example, construction) are being hired by the prosecution office and involved in criminal investigations in Azerbaijan.

Forensic accounting as a tool to investigate corruption. A presentation on forensic accounting tools available in private audit companies showed that while audit companies do not have similar powers as law enforcement authorities, they have resources and skills that can be useful to help uncover corruption, especially active bribery. Many forensic accounting tools were presented, in particular, analysis of open source information (mass media, internet, etc.),

analysis of corporate databases, accounting and other documents of companies (accounting records, agreements, payment orders, bank statements, etc.), interviews of employees of companies and professional organisations, gathering information within an industry, a procedure to match lifestyle with a predicted income. It was mentioned that, for example, focused interviews with financial officers can be a good source of information on schemes, used to channel money from this company. It was stressed that the strength of forensic accounting is in a combined analysis of information.

Use of databases for the analysis. Publically available national and international corporate databases were mentioned as another important tool. Such databases contain compilation of information placed in the open-access state registries (for example, registers of legal entities, tax inspection, state statistics service). Access to them usually is a paid service. Examples: <http://www.spark-interfax.ru/> and <http://www.integrum.ru/>. Major advantage of such databases is search speed and convenience. The presentation showed how basic registration information of an enterprise, including names of beneficiaries, state capital and address can be easily retrieved from such public databases and how these databases allow establishing links among corporate entities. Such databases do not present a direct source of evidence, but only a tool for analysis of information. Further, evidence can be collected by directly contacting relevant authorities.

Links between corruption and money laundering

Money-laundering and corruption are closely linked. The Financial Action Task Force in its recent publication recognised this link and stressed that anti-money laundering tools could help combat corruption.¹ Presentations from Italy and Estonia showed practical experience in investigating money-laundering and its links with corruption. Representatives of Financial Investigation Units (FIUs) from Ukraine, Poland and the Russian Federation presented tools and skills available in “anti-money laundering community”. Ways to promote FIUs’ cooperation with law enforcement authorities were discussed.

These presentations, followed by working group discussion, addressed the following issues:

FIUs as source of useful information and skills for corruption investigations. Representatives from FIUs in Ukraine and Poland presented a variety of tools and forms of cooperation that FIUs can provide to law enforcement authorities investigating and prosecuting corruption and money-laundering. On the one side, FIUs respond to information requests of law enforcement authorities and, on the other side, proactively analyse suspicious bank transactions and link it with other information. Main tool of FIUs – a database of STRs – can be potentially a source of information on suspects in corruption and money-laundering cases. Besides, FIUs receive reports on unusual transactions from colleagues in other countries. Since corruption is a predicate offence to money laundering and if politically exposed persons are involved, an FIU can, upon request, provide law enforcement authorities information on assets of certain persons. Upon

¹ FATF, A reference guide and information note on the use of the FATF Recommendations in the fight against corruption, FATF/OECD, 2010, <http://www.fatf-gafi.org/dataoecd/59/44/46252454.pdf>

request, FIU can build a profile of the suspect. Presentation from Poland showed how it actively cooperates with law enforcement institutions and systematically sends its own reports to prosecution office and provides replies to requests coming from them. The Polish FIU also presented experience in proactively raising awareness of law enforcement authorities. In Ukraine the FIU is checking all operations on public officials that have obligation to report assets.

A lot of discussion attracted the possibility of FIUs to **access bank information** before a criminal investigation is started, including from other countries. Information from abroad can be received by FIU quickly and is reliable; however, it is limited to information about the location of assets and needs to be supplemented by an MLA request, in order to obtain information which can be used as evidence in court.

Proactive approach and cross-analysis – key factors to investigate money-laundering and corruption. A complex money-laundering case involving corruption was presented by an investigator from Italy. It showed a number of effective tools that can be used to uncover money-laundering and corruption. It also revealed how effective investigation using various traditional and proactive tools can help to uncover complex cross-border money-laundering schemes, including successful cooperation with offshore zones, and also lead to links with corruption. Particular role was attached to a cross-analysis of bank information and wire transfers, phone calls and open source information. Cross-border police cooperation with involved countries was key, for example, for surveillance, but also simple operative exchange of information proved useful. Several elements that led to the success of this case were discussed. Analysis of open source information was important and very useful, for example, to trace companies used in criminal schemes. Informal cooperation and networking with law enforcement authorities in other countries was crucial. Investigation was conducted as a cooperative effort and regular meetings were held. It was of crucial importance that appropriate resources were dedicated to this case and specialisation of involved persons was in place, as well as the fact that the case had a “low profile”(no coverage in mass media). Above all the proactive approach of investigators and ability to cross-analyse information and effectively use available investigative methods and operational networking with other countries was crucial for success.

Identifying main risk areas and typical signs of money-laundering and corruption. The presentation from Estonia showed that most common corruption and money laundering crimes are committed by local officials in the area of public procurement and distribution of EU funds. The representative of FIU of the Russian Federation confirmed that the most typical area with corruption risks is public procurement. Other risk areas are management of public property, provision of loans, subsidies, discounts and VAT refund. Most often undue benefits are received by public officials who take decisions relevant to distribution of public resources or those taking decisions with an impact on property and other rights received by citizens. Specific signs of risks of corruption in these areas were presented.

Essential to foster cooperation of FIUs and law enforcement authorities. It was stressed on several occasions that cooperation of FIUs and law enforcement authorities can be crucial to uncover money-laundering and corruption and that both sides can greatly benefit from it.

Presentations showed that serious corruption and money-laundering crimes usually involve complex schemes and require equally complex investigations. They link public officials, relatives and other related persons, fake, shadow and foreign enterprises, through which money is channelled, fake consultancy/service contracts, various intermediaries and, as a rule, involve many countries. It was stressed that only with a proactive approach and cooperation at national and international level such schemes can be effectively detected. Hence, networking, including through such seminars, is essential for investigators and prosecutors to investigate trans-border money-laundering and corruption cases. Also the working group discussion of hypothetical complex case clearly showed that information possessed by one institution or country usually is not enough to show an illegal scheme, but by proactively exchanging information a major international investigation can be triggered.

Assessment of the seminar and future priorities

At the final session, the participants were invited to assess the seminar and to identify its achievements. The participants pointed out the following areas where they gained new and useful knowledge, as well as the working methods that they have most appreciated:

- Participants stated that presentations and discussion of real life cases by practitioners was the most useful form of learning and work at the seminar;
- They further confirmed that networking and building of informal personal contacts among practitioners was another useful result of the seminar, allowing them to contact each other in the future in the course of their investigations and prosecutions;
- Participants appreciated the opportunity for the investigators and prosecutors to meet with the FIUs, to learn about links and typologies of money-laundering and corruption, and to discuss how law-enforcement and anti-money laundering specialists can support each other;
- Concerning specific issues related to investigation and prosecution of corruption, the participants appreciated the opportunity to learn about the use of operational cooperation of law-enforcement in different countries and about forensic accounting methods and possibility to use private accounting companies in financial investigations; they agreed that the seminar discussed a variety of investigative means, which must all be tried and used in their practice.

Further, the participants were invited to identify areas for future work. The following specific suggestions were made:

- The participants requested the continuation of the ACN peer learning programme for investigators and prosecutors; future training should continue to be based on the method of training by practitioners, using case studies; it should also ensure more active involvement of participants through smaller and better facilitated discussions in break-out groups, and allow more time for the discussion of problems in various countries and analysis of main challenges in corruption investigations and how to overcome them;
- The participants suggested to consider the possibility of establishing a more permanent network of investigators and practitioners;

- Future trainings may focus on such issues as tactics of investigation, investigation plan and coordination in large investigations;
- It would be useful to address such issues as investigation of predicate offences to money-laundering, links to organised crime and new types of crime, such as electronic fraud;
- Analytical tools used for financial analysis and methods for tracing assets gained through corruption, as well as methods of investigations that involve offshore zones, trans-border crimes and money transfers are also areas of interest;
- Information exchange among countries, both informal and MLA, use of international joint investigative teams, conducting surveillance abroad were also suggested as subjects for future training;
- Treatment of evidence in different countries, presenting evidence in courts, continuing presenting actual cases, including those with a court verdicts reached were also suggested for consideration in view of future training.

TOPIC 1: FINANCIAL INVESTIGATIONS

The following presentations were made by:

- ***Proactive detection of corruption***, Mr. Jay Shapiro, Esq., former prosecutor, White and Williams LLP, United States
- ***How to conduct successful financial investigations: tracing the movement of money and other assets in criminal cases***, Mr. Yury Kruty, Special Agent, IRS-Criminal Investigations, U.S. Treasury Department
- ***Use of multi-disciplinary investigation teams. Example of criminal investigation into illegal funding of political party***, Mr. Saulius Verseckas, General Prosecutor's Office of Lithuania
- ***Use of forensic accounting in investigation and prosecution of corruption***, Mr. Ivan V. Ryutov, Partner, Assurance Services, Ernst & Young (CIS)
- ***Using evidence of unlawful or unexplained financial transactions in prosecuting public corruption offenses***, Ms. Mary Butler, Resident Legal Advisor, U.S. Embassy in Ukraine, Prosecutor, Department of Justice, United States

Proactive detection of corruption

Mr. Jay Shapiro Esq.
Former prosecutor
White and Williams LLP
United States

TYPES OF PUBLIC CORRUPTION

- ANY PUBLIC OFFICIAL WILLING TO BE INFLUENCED BY AN IMPROPER, UNAUTHORIZED FINANCIAL BENEFIT
- **EXAMPLES:**
 - POLICE OFFICERS WHO PARTICIPATE IN CRIMES FOR FINANCIAL GAIN
 - JUDGES WHO ALLOW FINANCIAL BENEFITS TO INFLUENCE THEIR DECISIONS
 - SCHOOL OFFICIALS WHO PERSONALLY TAKE FUNDS INTENDED FOR EDUCATIONAL PURPOSES

PROACTIVE DETECTION

- **BASIC PREMISE:**
LIKE POURING A CUP OF TEA,
THERE ARE LIMITS
TO WHERE MONEY
CAN GO



HOW WILL THE MONEY BE HIDDEN

- IT IS DIFFICULT FOR PEOPLE WITH NEW FOUND WEALTH TO AVOID SOME MANIFESTATION OF THEIR STATUS
- THERE ARE EASY CASES AND DIFFICULT ONES, AND MUCH DEPENDS UPON THE SOPHISTICATION OF THE TARGET
- THE NATURE OF THE BENEFIT IS ALSO A FACTOR

TRADITIONAL MONEY LAUNDERING

- IN THE 90's, BILLIONS OF DOLLARS WERE LAUNDERED AS A RESULT OF ILLEGAL NARCOTICS TRAFFICKING BETWEEN SOUTH AMERICA AND THE UNITED STATES
- IN ORDER TO COMBAT THAT CRIMINAL ACTIVITY, LAW ENFORCEMENT DECIDED TO START AT A LOW LEVEL AND WORK ITS WAY UP—A TRADITIONAL INVESTIGATIVE STRATEGY



THE FLORIDA FORFEITURE ACTION

- MR. ZAPATA WAS ARRESTED-
 - POSSESSED ONE MILLION DOLLARS IN MONEY ORDERS, EACH LESS THAN \$10,000
 - MULTIPLE DIRECT RECIPIENT ACCOUNTS
 - CHECKS WOULD BE WRITTEN WITHOUT PAYEES NAMES
 - CHECKS THEN WERE DELIVERED TO SOUTH AMERICA
 - CHECKS WERE THEN WRITTEN TO SECONDARY ACCOUNTS

SECONDARY ACCOUNTS

- CHECKS WERE WRITTEN TO SECONDARY ACCOUNTS TO MOVE THE MONEY AWAY FROM THE ORIGINAL DEPOSITS AND TO WASH THE ILLEGAL SOURCE
 - CUTLERY FOUNDATION
 - JACQUES COUSTEAU
 - ARIE EDELMAN

PUBLIC CORRUPTION COMPARISON

- | | |
|---|---|
| • <i>NARCOTICS INVESTIGATIONS:</i> | • <i>PUBLIC CORRUPTION INVESTIGATIONS:</i> |
| – LARGE NUMBER OF PARTICIPANTS | – LIMITED NUMBER OF PARTICIPANTS |
| – WILLINGNESS TO BE AN OVERT OUTLAW | – THE APPEARANCE OF INTEGRITY IS NEEDED |
| – LESS OF A NEED TO HIDE WEALTH—A MARK OF SUCCESS | – LONGEVITY COMES FROM SECRECY |

BROWARD COUNTY, FLORIDA 2009-2010 PROSECUTIONS

- PUBLIC CORRUPTION
- MONEY LAUNDERING
- EXTORTION
- BRIBE RECEIVING
- MISCONDUCT CONCERNING GOVERNMENT FUNDS

FITZROY DANIEL SALESMAN

- CITY OF MIRAMAR COMMISSIONER
- 5 FBI AGENTS IN UNDERCOVER ROLES
 - *Construction contractors, lobbyists and organized crime figure*
- SALESMAN MADE INTRODUCTIONS TO OTHER GOVERNMENT OFFICIALS AND OBTAINED CONTRACTS FOR THE UNDERCOVER AGENTS, INCLUDING A GAZEBO PROJECT AND A GYM FLOOR

BEVERLY GALLAGHER

- BROWARD COUNTY SCHOOL BOARD MEMBER
- TWO FBI UNDERCOVER AGENTS
 - GALLAGHER: WE CAN *"MAKE A LOT OF MONEY TOGETHER."*
- GALLAGHER ASSISTED AN UNDERCOVER TO GET A CONTRACTOR "PRE-QUALIFIED"
- GALLAGHER SOLD HER INFLUENCE IN EXCHANGE FOR CASH
- GALLAGHER MADE INTRODUCTIONS TO OTHER OFFICIALS
- GALLAGHER INFLUENCED OFFICIAL VOTING ON PROJECTS

COUNTY COMMISSIONER JOSEPHUS EGGELLETION

- A CHECKERED HISTORY:
 - IN 2002 HE USED A GOVERNMENT ISSUED COUNTY CREDIT CARD TO PAY FOR GOLF OUTINGS, PERSONAL RESTAURANT CHARGES, BAR BILLS AND EVEN HIS DRY CLEANING
 - HE ALSO WAS INVESTIGATED AT THAT TIME FOR ABUSING HIS SICK LEAVE
 - IN 2005 HE WAS SANCTIONED BY A STATE ETHICS COMMISSION FOR A CONFLICT OF INTEREST INVOLVING A SANITATION REMOVAL COMPANY

THE MONEY LAUNDERING SCHEME

- FBI AGENTS IN UNDERCOVER ROLES
 - *INTRODUCED BY ANOTHER POLITICIAN AS MONEY MANAGERS LOOKING TO HIDE ASSETS*
- ONE AGENT MAKES A \$5,000 DONATION TO A CHARITY RUN BY EGGELETION
- THE AGENTS EXPLAIN THE NEED TO LAUNDER MONEY FROM A EUROPEAN FRAUD SCHEME
- EGGELETION MAKES INTRODUCTIONS AND ASSISTS IN THE OPENING OF OFF SHORE ACCOUNTS (BAHAMAS)

THE PAYOFFS

- | | |
|--|--|
| • Percentage of \$7,000 | ➤ Paid to an accomplice |
| • One third share of \$10,000 money laundering “fee” | ➤ Placed in Eggelletion’s golf bag by his accomplice |
| • \$3,300 money laundering fee | ➤ Placed in a passport holder by accomplice |
| • \$5,000 in cash | ➤ Placed in a day planner |
| • \$15,000 in cash | ➤ Held by accomplice |

LESSONS TO BE LEARNED

- **TARGET IDENTIFICATION**
 - **BACKGROUND**
 - **PRIOR INSTANCES OF TROUBLE, EVEN MINOR, BUT OF A CERTAIN CHARACTER**
 - **BEHAVIOR ON THE FRINGE**
 - **NOT FOCUSED ON WORKING AT THE JOB**
 - **UNUSUAL SPENDING**
 - **ACTIVITIES THAT SEEMS UNUSUAL**
 - **ASSOCIATIONS THAT ARE SUSPECT**

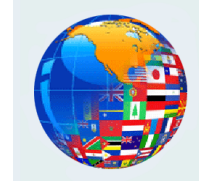
LESSONS TO BE LEARNED

- **THE INVESTIGATION**
 - **UNDERCOVER OPERATIVES ARE EFFECTIVE**
 - **PROVIDE THEM WITH THE RIGHT TRAPPINGS**
 - **DON'T STRETCH THE TARGET**
 - **CORROBORATE THE INVESTIGATORS**
 - **RECORDINGS, BANK ACCOUNTS, ELECTRONIC COMMUNICATIONS**
 - **PATIENCE**

How to conduct successful financial investigations: tracing the movement of money and other assets in criminal cases

Mr. Yury Kruty
Special Agent
Criminal Investigations
Internal Revenue Service
U.S. Treasury Department

GIFT Mission



- ▶ The GIFT will identify and investigate, jointly with other law enforcement agencies, including law enforcement from other countries, those individuals and entities knowingly facilitating the movement of money derived from international organized crime



2

GIFT Members and Partners



DOD, OIA, SEC, FINCEN,
INTERPOL, US Treasury,
Local LEOs, etc.



3



- ▶ Topic:
- ▶ Case study on how to conduct successful financial investigations: tracing the movement of money and other assets in criminal cases



4

USA v. Bloom, et al.



- ▶ United States Department of Justice
- ▶ Internal Revenue Service
- ▶ Immigration and Customs Enforcement
- ▶ Special Inspector General for Iraqi Reconstruction
- ▶ Federal Bureau of Investigation



5

The Investigation

- ▶ Audit discovered questionable practices in Al Hillah, Iraq
- ▶ Investigators identified people who worked on the contracts and handled the contract money
- ▶ Bank records showed suspicious wire transfers from Credit Bank of Iraq to Military officers and staff
- ▶ Additional bank records were obtained



6

The Investigation

- ▶ Bank records showed wire transfers to car dealerships, jewelry store, mortgage company
- ▶ Bank records showed purchase of airplane
- ▶ Agents interviewed Al Hillah Staff
- ▶ Agents interviewed Military personnel



7

The Investigation

- ▶ Agents interviewed car dealers, bank officers, jewelers, family members
- ▶ Agents then interviewed key subjects of the investigation and carried out enforcement actions simultaneously



8

The Investigation

- ▶ Agents conducted search warrants at subjects homes
- ▶ Agents executed seizure warrants
- ▶ Agents arrested Robert Stein and Philip Bloom
- ▶ Agents assisted prosecutors with trial



9



Robert Stein



Lt. Col.
Bruce
Hopfengardner



Phil Bloom



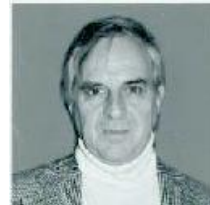
Col. Curtis Whiteford



Lt. Col.
Debra Harrison



Lt. Col. Michael Wheeler



Michael Morris



Internal Revenue Service
CRIMINAL INVESTIGATION

10

Lt. Col. Bruce Hopfengardner Police Advisor & Project Officer



What He Did:

- Steered Contracts to Bloom
- Planned “Anaconda” PSD with Whiteford and Stein



Internal Revenue Service
CRIMINAL INVESTIGATION

11

Lt. Col. Bruce Hopfengardner Police Advisor & Project Officer



What He Got:

- Wire Transfers From Bloom
- 2004 Yukon Denali SUV from Bloom and Morris
- \$3,200 Breitling Watch
- Laptop Computer
- Stolen cash



Internal Revenue Service
CRIMINAL INVESTIGATION

12

Lt. Col. Bruce Hopfengardner Police Advisor & Project Officer



Pleaded Guilty To:

- ▶ Conspiracy to Launder Money
- ▶ Conspiracy to Commit Wire Fraud

Sentenced to 21 months in prison

Ordered to forfeit \$144,500



Internal Revenue Service
CRIMINAL INVESTIGATION

13

Robert Stein Operations Officer & Comptroller



What He Did:

- ⦿ Helped Award and Pay Out Contracts to Bloom
- ⦿ Stole CPA Money
- ⦿ Transported Weapons
- ⦿ Helped Bloom Provide Things of Value
- ⦿ Planned “Anaconda” PSD



Internal Revenue Service
CRIMINAL INVESTIGATION

14

Robert Stein Operations Officer & Comptroller



What He Got:

- ⦿ Wire Transfers from Bloom
- ⦿ Cars from Bloom and Morris
- ⦿ \$3,200 Breitling Watch
- ⦿ Laptop Computer
- ⦿ Weapons
- ⦿ Cash from CPA Vault



Internal Revenue Service
CRIMINAL INVESTIGATION

15

Robert Stein Operations Officer & Comptroller



Pleaded Guilty to:

- ▶ Conspiracy
- ▶ Bribery
- ▶ Money Laundering
- ▶ Felon in Possession
- ▶ Possession of an Unregistered Machine Gun



Sentenced to 9 years in prison

Ordered to forfeit \$3.6 million



Internal Revenue Service
CRIMINAL INVESTIGATION



16

Phillip Bloom Government Contractor (GBG)



What He Did:

- ⦿ Paid Bribes and Kickbacks
- ⦿ Submitted Dummy Bids
- ⦿ Wire transferred stolen money to pay for cars, guns and plane tickets
- ⦿ Incomplete Contract



Performance



Internal Revenue Service
CRIMINAL INVESTIGATION

17

Phillip Bloom Government Contractor (GBG)

Pleaded Guilty to:



- ▶ Conspiracy
- ▶ Bribery
- ▶ Money Laundering

Sentenced to 46 months in prison

Ordered to forfeit \$3.6 million



Internal Revenue Service
CRIMINAL INVESTIGATION

18

Lt. Col. Debra Harrison Deputy Comptroller



GCV-38665

What She Did:

- ⦿ Helped Pay Out Contract Funds to Bloom
- ⦿ Agreed to Help Bloom with Contract Issues
- ⦿ Smuggled Stolen Cash into the United States
- ⦿ Transported Weapons



Internal Revenue Service
CRIMINAL INVESTIGATION

19

Lt. Col. Debra Harrison Deputy Comptroller



GCV-38665

What She Got:

- ⦿ 2004 Cadillac Escalade from Bloom and Morris
- ⦿ Cash Stolen from Vault
- ⦿ Prescription Narcotics from Stein
- ⦿ Handguns



Internal Revenue Service
CRIMINAL INVESTIGATION

20

Lt. Col. Debra Harrison Deputy Comptroller



GCV-38663

Pleaded Guilty to:

- ▶ Wire Fraud

Sentenced to 30 months in prison

Ordered to pay \$366,640



21

Defendant Curtis Whiteford Chief of Staff



What He Did:



- ⦿ Supervised All CPA-SC Military Personnel
- ⦿ Supervised Wheeler, Stein, Hopfengardner and Harrison
- ⦿ Responsible for \$80 million in CPA Funds
- ⦿ Signed End-User Agreements
- ⦿ Planned "Anaconda" PSD



22

Defendant Curtis Whiteford Chief of Staff



What He Got:

- ⦿ \$10,000 in cash
- ⦿ \$3,200 Breitling Watch
- ⦿ Laptop Computer
- ⦿ Asked Bloom for a Nissan 350Z sports car
- ⦿ Business Class Plane Ticket



Internal Revenue Service
CRIMINAL INVESTIGATION

23

Defendant Curtis Whiteford Chief of Staff



Convicted by a Jury:

- ▶ Conspiracy to Commit
 - Bribery
 - Wire Fraud
 - Transport of Stolen Property
 - Unlawful Possession of Guns

Sentenced to 60 months in prison



Internal Revenue Service
CRIMINAL INVESTIGATION

24

Defendant Michael Wheeler Project Officer



What He Did:

- Provided Project and Cost Information to Bloom
- Certified Work So That Bloom Was Paid
- Transported Cash Back into the United States
- Transported Weapons



Internal Revenue Service
CRIMINAL INVESTIGATION

25

Defendant Michael Wheeler Project Officer



What He Got:

- Two Machine Guns
- Four Semi-Automatic Handguns
- One Silencer
- One Whitefeather Rifle
- Business-class Plane Ticket
- \$1,000 in Cash



Internal Revenue Service
CRIMINAL INVESTIGATION

26

Defendant Michael Wheeler Project Officer



Convicted by a Jury:

- ▶ Conspiracy to Commit
 - Bribery
 - Wire Fraud
 - Transport of Stolen Property
 - Unlawful Possession of Guns

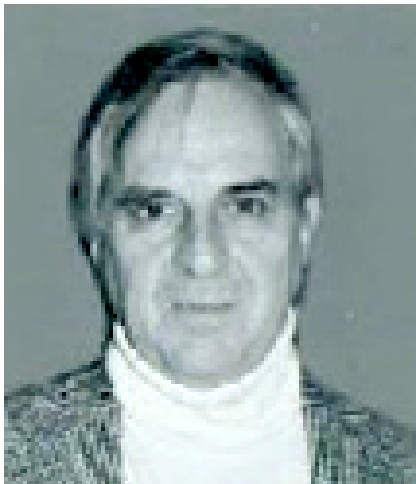
Sentenced to 42 months in prison



Internal Revenue Service
CRIMINAL INVESTIGATION

27

Seymour ("Mike") Morris, Jr. Oxbridge Holdings



What He Did:

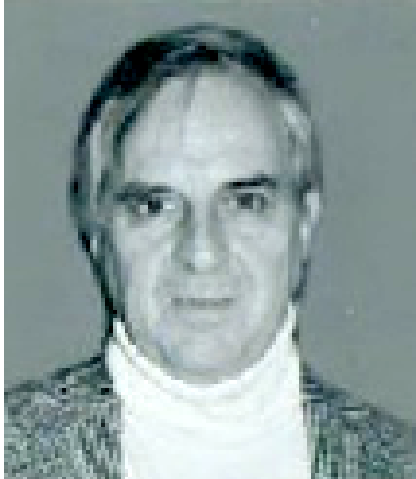
- ⦿ Located Vehicles for Whiteford, Stein, Hopfengardner, and Harrison
- ⦿ Accepted Wire Transfers from Bloom
- ⦿ Wire Transferred Money for Vehicles



Internal Revenue Service
CRIMINAL INVESTIGATION

28

Seymour ("Mike") Morris, Jr. Oxbridge Holdings



What He Got:

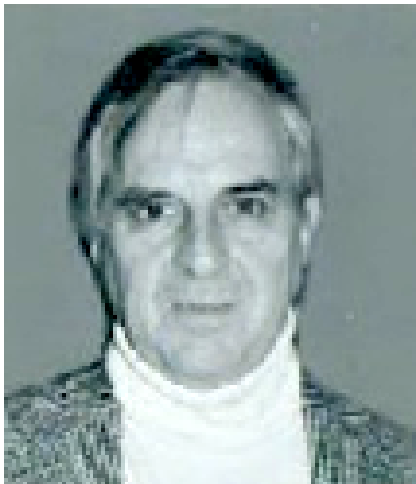
- \$36,000 Commission for locating and purchasing Porsche, Lexus, RV, Cadillac and Denali for Stein, Lt Col Harrison and Lt Col Hopfengardner



Internal Revenue Service
CRIMINAL INVESTIGATION

29

Seymour ("Mike") Morris, Jr. Oxbridge Holdings



Acquitted after Jury Trial



Internal Revenue Service
CRIMINAL INVESTIGATION

30

Role of investigation groups in investigation and prosecution of corruption

Mr. Saulius Verseckas

Prosecutor of the Investigation Department for
Organized Crime and Corruption
General Prosecutor's Office
Republic of Lithuania

GENERAL INFORMATION

I. Organization of prejudicial inquiry in Lithuania

Before discussing particular cases I would like to briefly clarify the main provisions of the Criminal Procedural Code of the Republic of Lithuania, so that you can easier understand how the prejudicial criminal process is organized in Lithuania.

Article 164 of the Criminal Procedural Code of the Republic of Lithuania provides that prejudicial inquiry shall be performed by a prejudicial inquiry officer, while a **prosecutor** shall organize and manage the prejudicial inquiry.

So the standard scheme of crime investigation in Lithuania is the following – crime investigation is performed by a prejudicial inquiry institution, its investigators who carry out interrogations, collect documents, talk to experts and specialists, while the prosecutor evaluates the materials collected by the investigators, takes main procedural decisions, in certain cases envisaged by law the prosecutor appeals to a prejudicial inquiry judge with a request to apply procedural coercive measure (imprisonment, search, wiretapping etc.).

II. Prejudicial inquiry institutions in Lithuania

Like in the majority of other states, the main prejudicial inquiry institution, which deals with crime investigation, is the **police**, but besides it there are specialized prejudicial inquiry institutions in Lithuania, which carry out prejudicial inquiries in certain areas for which they are responsible under law.

Article 165 of the Criminal Procedural Code of the Republic of Lithuania provides that besides the police the prejudicial inquiry institutions also include:

- 1) Special Investigation Service;
- 2) Service for Investigation of Financial Crimes;
- 3) Customs Office of the Republic of Lithuania;
- 4) State Border Guard Service;
- 5) Military Police;
- 6) Fire Safety and Rescue Department.

It should be noted that before 1 February 2011 the **State Security Department** was also responsible for prejudicial inquiry, but after reorganization that institution is no longer in charge of prejudicial inquiry.

Below I would like to briefly describe the main specialized institutions conducting pre-trial investigation.

1. Special Investigation Service

- prejudicial inquiry institution which is specialized in detection and investigation of corruption crimes: bribery, commercial bribery, abuse of official position etc.

2. Service for Investigation of Financial Crimes

- prejudicial inquiry institution which is specialized in detection and investigation of financial crimes: money laundering, fraud, tax evasion, fraudulent accounting etc.

3. Criminal Service of the Customs Office of the Republic of Lithuania

- prejudicial inquiry institution which is specialized in detection and investigation of customs-related crimes, most commonly with smuggling.

4. Military Police

- carries out prejudicial inquiries with respect to crimes, which are committed in the field of regional guard, military units as well as crimes committed by servicemen of Lithuania.

5. Criminal Police Bureau of Lithuania

As already noted above, the main prejudicial inquiry institution is the **police**, therefore I would like to mention the **Criminal Police Bureau of Lithuania** as the most important police prejudicial inquiry institution, which handles prejudicial inquiries with respect to organized crimes as well as prejudicial inquiries related to online electronic crimes.

III. Participation of specialists and experts in pre-trial investigations

Also in the course of prejudicial inquiries prosecutors and prejudicial inquiry officers quite often refer to specialists and experts, when it is necessary to obtain opinion on a certain issue being important for the case.

Article 89 of the Criminal Procedural Code of the Republic of Lithuania provides that a specialist is a person, who possesses special knowledge and skills and who can give an opinion on issues which are within his/her competence.

A specialist can be a person working in a prejudicial inquiry institution, a person working in a specialized expert establishment as well as a person working in other establishments; a specialist can also be an individual, who has necessary knowledge, competence and experience and can evaluate these cases and provide an opinion.

The main expert institutions in Lithuania are:

- 1) **Forensic Examination Center of Lithuania;**
- 2) **Criminalistic Research Center of Police of Lithuania;**
- 3) **State Service for Forensic Medicine;**
- 4) **State Service for Forensic Psychiatrics;**
- 5) **Departments for Investigation of Financial and Business Activities of the Service for Investigation of Financial Crimes.**

Besides that for the purposes of investigation of corruption and financial crimes there are engaged those specialists who work in:

- 1) **State Tax Inspection;**
- 2) **Public Procurement Commission;**
- 3) **State Control;**
- 4) **Ministries;**
- 5) **and others.**

Also, as I have already said, if there are no specialists in the state institutions who have necessary competence and knowledge, there are engaged **individuals**, who are able to conduct the respective expertise and provide an expert opinion. In practice such individual specialists are engaged when it is necessary to evaluate construction works carried out for budgetary funds, since there are many corruption crimes in this area.

IV. Establishment of joint investigative teams

As noted above, prejudicial inquiry is organized and managed by a prosecutor, who in case of ordinary crime assigns prejudicial inquiry to one of the prejudicial inquiry institutions.

However, in complex cases (especially in the course of investigation of corruption and financial crimes) the prosecutor on the basis of part 3 of Article 171 of the Criminal Procedural Code of the Republic of Lithuania has the right to establish an investigation group and to include into it officers from several prejudicial inquiry institutions.

Moreover, in accordance with Article 175 of the Criminal Procedural Code of the Republic of Lithuania the prosecutor shall have the right to assign performance of certain actions to another prosecutor or any prejudicial inquiry institution.

When joint investigative team are comprised of officers from several prejudicial inquiry institutions, the prosecutor gets a special role in the course of prejudicial inquiry, since s/he is obliged to ensure well coordinated work of the established group, i.e. shall duly prepare the investigative plan, coordinate actions of investigators, correctly distribute assignments between

them, timely familiarize himself/herself with the received data and evaluate them, take important procedural decisions, including on completion of prejudicial inquiry.

CASE STUDY – AN ACTUAL INVESTIGATION

Below I would like to give one example from my practice, which, in my opinion, is the most vivid example of practical investigation with participation of officers and specialists from various bodies, which becomes the basis of successful investigation.

V. Criminal case on illegal financing of a political party

I believe that the best example of investigation with participation of officers and specialists from various pre-trial investigation institutions is the criminal case on illegal financing of one of the political parties of Lithuania and use of such illegal funds in such party's activities, which has been investigated in 2006-2008. Since as of today the investigation has not been completed yet, I will not disclose specific names and details.

It should be noted that already in 2002 Seimas (the Parliament) of the Republic of Lithuania has approved the **National Anticorruption Program of the Republic of Lithuania**, which has stipulated that the key goal is to restrain political corruption and one of the means shall be liability for illegal or hidden support (financing) of political parties.

For these purposes in 2004 there has been adopted the Law of the Republic of Lithuania "On Financing of Political Parties and Political Campaigns and Control over Financing" aimed at:

- 1) ensuring continuity and openness of financing of political parties and political campaigns;
- 2) establishing the procedure for financing of political parties;
- 3) establishing effective and transparent control over financing of political parties and political campaigns.

At the same time there have been adopted the amendments to the Criminal Code, which have allowed making persons liable for illegal financing of political parties.

Therefore, in 2004 there has been established a statutory control over financing of political parties as well as criminal liability for illegal financing of political parties.

Hence, the above-mentioned criminal case has been initiated in 2006 when the State Security Department in the course of performance of its functions has received information that one of the political parties of Lithuania has been being financed with illegal funds, which are actively used in such party's activities.

Based on this information the General Prosecutor's Office of the Republic of Lithuania has initiated prejudicial inquiry in relation to the fact of fraudulent accounting of the political party, making invalid entries on incomes and their use in returns and financial reports of the party,

their submission to the authorized state bodies as well as on the fact of potential legalization of monetary funds in the party's activities (or in other words – money laundering).

Already in the beginning of the prejudicial inquiry it has become obvious that the investigation would be comprehensive and complex, since:

- 1) it would be necessary to collect and evaluate information on the party's activities during 2004-2006;
- 2) it would be necessary to collect and evaluate information not only on activities of the central bodies of the party, but on the party's activities in Lithuania on the whole, including on the activities of the party's branches, which have been active in 40 localities of Lithuania;
- 3) based on the preliminary information there have been used material amounts of illegal funds in the party's activities (only in 2005 the party has used illegal funds in the amount of EUR 2 mln).

Therefore, for the purposes of prejudicial inquiry there has been established an investigative group with participation of officers from various prejudicial inquiry institutions and prosecutors of the Investigation Department for Organized Crime and Corruption of the General Prosecutor's Office.

That investigative group has also included prejudicial inquiry officers from the following prejudicial inquiry institutions:

- 1) State Security Department;
- 2) Criminal Police Bureau of Lithuania;
- 3) Special Investigation Service;
- 4) Service for Investigation of Financial Crimes.

In the course of prejudicial inquiry the main role has been played by the **prosecutors of the Investigation Department for Organized Crime and Corruption of the General Prosecutor's Office**, since it is the prosecutor organizes and manages prejudicial process in the course of prejudicial investigation.

In this case the prosecutors have been in charge not only of organizational matters, i.e. planning, coordination and management of prejudicial inquiry, but the prosecutors have also been performing the key procedural actions – interrogations of suspects, main witnesses, assignment of tasks to specialists and experts. Moreover, the prosecutors have applied to the prejudicial inquiry judge with appeals for searches, wiretapping, control over electronic correspondence, seizure of documents or collection of other important information, as well as for taking suspects into custody and other actions, since, as mentioned above, under law only the prosecutor has the right to apply to the prejudicial inquiry judge with respect to performance of the above actions.

Officers of the **State Security Department** also played an important role since they have conducted searches in the main office of the political party, in the premises of enterprises and persons relating to the case in question. Also these officers have been performing the assigned procedural enforcement measures – wiretapping, control over electronic correspondence.

Since it has been necessary to conduct interrogations of various politicians, party members as well as members of the Parliament of Lithuania, this task has been assigned to the prejudicial inquiry officers of the **Special Investigation Service**.

Prejudicial inquiry officers of the **Service for Investigation of Financial Crimes** have been asked to conduct examination of the financial and business activities of the party and enterprises related to the party's financing, to seize financial and business documents of the party and the said enterprises or third persons.

Besides that, specialists of **Vilnius Unit for Investigation of Financial and Business Activities of the Service for Investigation of Financial Crimes and the State Tax Inspection** have been given a task to summarize the collected data and evaluate the financial activities of the party during 2004-2006.

Since the suspects in committing a crime – illegal financing of a political party with non-declared unaccounted monetary funds – have been actively using modern information technologies – personal computers and e-mail – therefore the substantial volume of the relevant information has been obtained from computers, other electronic data carriers, e-mail inboxes.

This area of prejudicial inquiry has been covered by the officers responsible for *investigation of online electronic crimes* of the **Criminal Police Bureau of Lithuania**, who have received a task to obtain data from telecommunication companies and Internet service providers, contents and data from emails of the suspects (sent and received letters, attachments thereto).

In the result of searches there have been seized many computers, which have been analyzed by *IT experts* from the **Forensic Examination Center of Lithuania**, who have submitted their opinions and results of analysis to the prosecutor. These results have been very important as they have proved and substantiated the suspicions that the political party has been being systematically financed with major illegal amounts of money.

Graphology experts from the said center have also examined handwriting and signatures of the suspects and other persons, since in the course of prejudicial inquiry there have been found many written documents, notes and records confirming the circumstances of the illegal financing of the political party.

In the course of investigation it has also been necessary to evaluate illegal financing of political advertisements at the expense of non-declared funds therefore, one has had to permanently track and analyze articles written in favor of the political party and its representatives and being published in one and the same mass media source and to identify whether they can be treated

as illegal political advertising, as they have been published in violation of statutory requirements without mentioning the source of financing.

Since such analysis of political advertising has been new for criminal process and there have been no particular specialists and experts who could have provided an expert opinion in that respect, there has been established a group of experts comprising of persons who have been able to give relevant comments due to their professional knowledge and experience.

These have been the experts from:

- 1) Inspector Service of Ethics of Journalism;**
- 2) Commission for Ethics of Journalists and Publishers;**
- 3) State Service for Consumers Rights Protection;**
- 4) Commission for Television and Radio Broadcasting of Lithuania;**
- 5) Main Election Commission;**
- 6) State Tax Service.**

As the result of the performed examination and analysis of the information published in one of the newspapers this group of experts has confirmed that in fact in the majority of cases this mass media has been publishing political advertisements of the respective political party without a required note and without naming the source of financing of the political advertising.

As I have said before, the complexity of that prejudicial inquiry has been caused by the fact that it has been necessary to analyze not only the lengthy period of time (two years) of illegal financial activities of the political party, but also the activities of the party and its units throughout the whole Lithuania.

Therefore, there have been engaged not only prosecutors of the General Prosecutor's Office and officers of the above-mentioned central prejudicial inquiry institutions, but also prosecutors of the territorial prosecutor's offices, officers of the territorial departments of the prejudicial inquiry institutions, who have received the task to interrogate persons living on the respective territories and to perform other procedural actions (for example, to seize documents).

Having said that, I would like to note that this case is the best example of how the prosecutors having joined forces of officers, specialists and experts from various specialized prejudicial inquiry institutions, have achieved high results, and that there has been performed comprehensive and complex prejudicial inquiry during the relatively short period (one year and seven months).

The results of the pre-trial investigation have been impressive. Based on these results it has been found out that during 2004-2006 that political party has been using illegal monetary funds in the amount of EUR 7 mln, which have not been declared and accounted by the party, while the state have not received taxes in the amount exceeding EUR 1 mln.

For comparison, I can say that this political party has shown in the submitted declaration that it has used EUR 3 mln. in its activities, accordingly the amount of used non-declared monetary funds has exceeded that amount more than two times.

The investigation has been successfully completed and the criminal case with the bill of indictment has been forwarded to the court for consideration. I would like to stress that besides individuals (party's chairperson, his deputies and chief treasurer) the charges have been brought against a legal person too – the political party itself.

In the course of the investigation there has been collected an impressive volume of documents (155 volumes, 200 pages each), over 300 persons have been interrogated.

As already noted, this criminal case is still being considered by the court.

Use of forensic accounting in investigation and prosecution of corruption

Mr. Ivan Ryutov

Partner

Head of Fraud Investigation & Dispute Services in the CIS
Ernst & Young

Key legislation regulating anti-corruption activities

- ▶ OECD Anti-bribery Convention
- ▶ UN Convention Against Corruption
- ▶ EU legislation against corruption (conventions and underlying principles)
- ▶ US Foreign Corrupt Practices Act
- ▶ UK Bribery Act
- ▶ Ukraine: Law on fundamental principles of prevention and counteracting corruption (approved by the Parliament in April 2011 and signed by the President in June 2011) – superseded previously existent anti-corruption legislation
- ▶ Russia: Federal Law on Countering Corruption, Presidential Decree on the Measures on Countering Corruption + additional legislation and changes to the criminal code (e.g. fines on pro-rata basis) approved recently

Page 2

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Investigation instruments - legislation

According to the Russian (Federal Law #144-FZ “On investigation activities”) and Ukrainian (law “On investigation activities” (art.8) legislation ONLY enforcement agencies are entitled to use the following investigation measures:

- Interrogation
- Control purchase
- Observation
- House-checks
- Communications (mail, phone, e-mail) control
- Person identification
- Creation of legal entities for conspiracy purposes (Ukraine)
- Other (close list)

However, use of forensic accounting in the process of investigation does not require application of these activities.

Page 3

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Use of forensic accounting tools

Specific forensic accounting tools depend on the nature of allegations, known facts and the available sources of information:

- ▶ Accounting and other records (Electronic Databases, General Ledgers, Accounting records, Agreements, Payment orders/Bank Statements, Invoices, Tax and other declarations, other primary documents)
- ▶ Employees (Management, financial department and accounting, PR/IR/GR personnel, sales and marketing personnel, operations personnel, security personnel etc.) including former employees
- ▶ Agents, subcontractors, distributors and other counterparties
- ▶ Periodicals and publications
- ▶ Chambers of Commerce (directly or via corporate databases (e.g. Spark, Integrum)
- ▶ Local industry associations
- ▶ IT systems in a broader sense
- ▶ Other procedures (e.g. matching employees lifestyle with predicted income)

Page 4

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Accounting and other records analysis

Corruption investigation should be focused on the areas susceptible for the active corruption (company corrupts somebody) or passive corruption (company's employees are corrupted).

It is improbable that passive corruption could be traced in the books and records.

Areas of attention for active corruption:

- Commission/agency agreements
- Consultancy agreements
- Expense reporting/advances payments
- Groups of transactions that could be used for "black" cash flow generation (capital construction, equipment purchases, spare parts purchases, various services, offsets etc.)
- Transactions with securities and derivatives

Page 5

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Interviews with personnel

Exact interview structure and questions depend on the role of interviewee (suspect, witness, whistleblower) and his position/responsibilities

Possible questions during the interview:

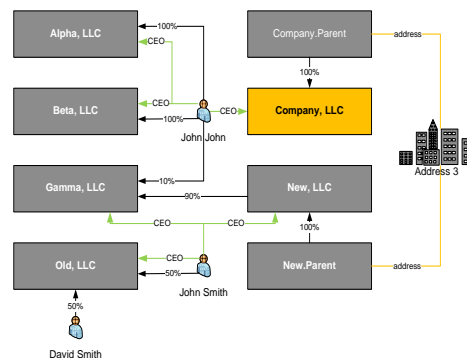
- General ethics and anti-bribery policies and procedures, their communication, compliance assurance
- Specific know cases of violation – how they were detected/investigated
- Known methods of “black” cash generation, how are they accounted for
- Specific situations interviewee (or his colleague) was faced: whether they were asked for paying or receiving a bribe
- Knowledge of specific violations in the areas of high corruption risk (previous slide)
- Comments on specific documents discovered during other parts of investigation

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Use of corporate databases: Example of the report – general information

| General information | |
|----------------------------------|-----------------------------------|
| Name | Company Limited Liability Company |
| Location address | Address 1 |
| Legal address | Address 2 |
| Phone | +7 00000000000 |
| Fax | +7 00000000000 |
| Director | John John |
| Status | Active (as of 1 April 2011) |
| Main field of activity | Consulting |
| Registration information | |
| Taxpayer's Identification Number | 123456789 |
| Charter capital | 10 kRUB |
| Primary registration date | 01 September 2009 |
| Registration date | 01 September 2009 |



Additional information:

- Balance sheet
- Income statement
- Other disclosures
- Corporate history

Page 7

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Use of corporate databases: Signs of mala-fide (suspicious) counterparties

- 1 Mass registration address (more than 10 companies registered/not a business center)
- 2 Registration address does not exist
- 3 Registration in living apartment, registration in the building not supposed to be used for business needs (e.g. abandoned building, barracks, etc.)
- 4 Invalid Individual Taxpayer Number
- 5 Mass (nominal) shareholder – individual is a shareholder in more than 10 different companies (in certain cases applies to legal entities as well)
- 6 Mass general manager – individual is a general manager in more than 10 different companies
- 7 Phone number/fax number is identical for several different companies
- 8 General manager is replaced more the once a year
- 9 Shareholder and general manager is the same person
- 10 Share capital of the company is equal or close to the minimum required amount (10,000 Rubles in Russia)
- 11 Company is liquidated or is in process of liquidation
- 12 First deal with the company within 6 months of its registration

IT Forensic technologies

Various tools for collection data and performing data analytics:

| | |
|--------------------------------------|---|
| EnCase Forensic Edition | Forensic Analysis Suite and Imaging Tool |
| Mount Image Pro | Software for mounting images |
| Outlook Recovery Toolbox | Email - Outlook formats Conversion, Email Recovery |
| Paraben Email Forensics | Email analysis |
| Paraben Network Forensics | Network analysis |
| Transend Migrator | Email Conversion, Email Recovery |
| Forensic Toolkit 3.0 | Forensic analysis suite |
| Tableau Desktop Professional Edition | Structured data graphical analysis platform |
| MS SQL Server 2008 | Data management and analysis platform Data management and analysis platform for small and medium-sized organizations |
| dtSearch Web | Indexing and basic eDiscovery tool |

IT Forensics – important note!

Performing IT Forensic procedures often involve imaging and analysis of the employees' computers data that may involve personal data as well.

It is critically important to consider local (or other applicable) personal data legislation in course of investigation.

Example for Russia:

Data privacy issues are regulated by the Law 152-FZ "On personal data". Also Law "On communication" prohibits unauthorized access to the personal e-mail.

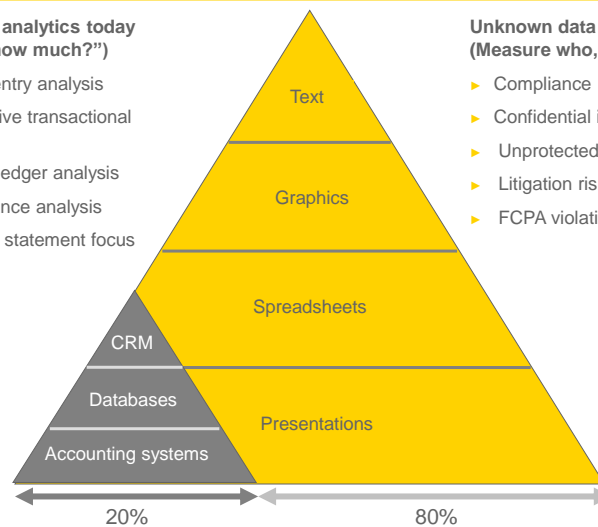
To reduce the risk of violations companies are advised to include special provision to the labor agreements (stipulating corporate nature of corporate e-mail boxes) and obtain written consent from the employees before collecting data.

It is always necessary to consult with the legal counsel before collection and processing of personal data to make the decision considering all circumstances.

Why is IT forensics so powerful? Structured versus unstructured data



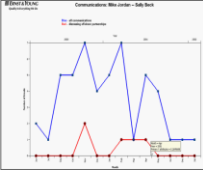
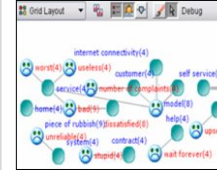
Testing and analytics today (Measure "how much?")

- ▶ Journal entry analysis
- ▶ Substantive transactional testing
- ▶ General ledger analysis
- ▶ Trial balance analysis
- ▶ Financial statement focus



Source – Gartner Research

Email Analytics

| WHO | WHAT | WHEN | WHY |
|--|---|--|---|
|  <p>Social Networking</p> <p>"Who is talking to whom?..."</p> <ul style="list-style-type: none"> • People to people analysis • Entity to entity analysis • Map communication lines to organization chart |  <p>Concept Clustering</p> <p>...about what?...</p> <ul style="list-style-type: none"> • Top words mentioned • Key concepts/ topics • Top or unusual dollar amounts • Sensitive words/ phrases |  <p>Communication Over Time</p> <p>...over which time period?...</p> <ul style="list-style-type: none"> • When communications occur • Communication spikes around key business events |  <p>Sentiment Analysis</p> <p>...how do they feel?"</p> <ul style="list-style-type: none"> • Positive vs Negative Sentiment • Top 10 negative journal entries • Top 10 angry emails • Top 10 most concerned emails • Customer survey analysis • Employee survey analysis |

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Finding Hidden Money - example

Predictive Modeling to Find Suspicious Transactions

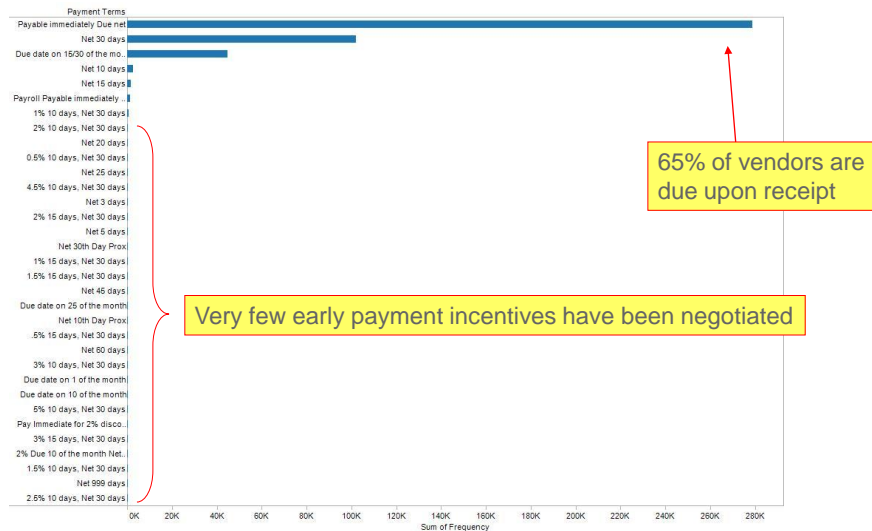
- ▶ Needed to analyzed 400,000 payments made to 15 vendors under suspicion of bribery
- ▶ Manually reviewed sample of 2,000 J/E transactions (comments, amounts, dates, etc.)
- ▶ Identified 600 suspicious and 1,400 non-suspicious entries
- ▶ Created statistical model: "Is Suspicious" / "Is Not Suspicious" based on profile of 600 suspicious transactions
- ▶ Applied model to 398,000 additional transactions
- ▶ Identified 14,000 new suspicious transactions
 - ▶ With confidence over 95% similar to "Is Suspicious"
 - ▶ Identified over **\$8 million** of highly suspicious payments

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Vendor Payment Analysis

Opportunity for Vendor Discount Negotiation for Early Payment



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Duplicate Master Vendor Analysis

Multiple Vendor Entries (*many with different terms*)

- Problem: Should only have one vendor in system
- Opportunity: Pick the best terms to start your negotiation

| Vendor Number | Vendor Name | Payment Terms |
|---------------|------------------------|--------------------------------------|
| 202974 | WASHINGTON IMAGING LLC | Net 30 days |
| 211114 | WASHINGTON IMAGING LLC | 2/10 Net 30 |
| 203288 | NORFOLK PIPELINE CORP | Net 30 days |
| 225409 | NORFOLK PIPELINE CORP | Net 60 days |
| 225409 | NORFOLK PIPELINE CORP | Net 60 days |
| 225409 | NORFOLK PIPELINE CORP | Net 60 days |
| 210335 | ABB PIPELINE CO | Payable immediately due upon receipt |
| 226344 | ABB PIPELINE CO | Net 30 days |
| 210335 | ABB PIPELINE CO | Payable immediately due upon receipt |
| 203803 | CONSTANT ENERGY | Payable immediately due upon receipt |
| 227295 | CONSTANT ENERGY | Payable immediately due upon receipt |
| 227297 | CONSTANT ENERGY | Net 15 days |
| 228932 | CONSTANT ENERGY | Net 30 days |
| 227295 | CONSTANT ENERGY | Payable immediately due upon receipt |
| 203803 | CONSTANT ENERGY | Payable immediately due upon receipt |
| 203803 | CONSTANT ENERGY | Payable immediately due upon receipt |
| 227295 | CONSTANT ENERGY | Payable immediately due upon receipt |

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Anomaly Detection

Recover Duplicative or Erroneous Invoices

Different Vendor ID

Exact Same Amount

Same Date

Different Invoice #

Same Reference / Job Code

| Vendor ID | VendorName | DocDate | Amt | Street Address | Invoice Number | PostDate | Reference Code |
|-----------|--------------------------------|-----------|-------------|-----------------------------|----------------|------------|----------------|
| 209655 | PREMIER FOGHORN COAL CO | 5/27/2008 | \$59,392.03 | 250 ALLISON BLVD | A334555 | 7/14/2008 | QUAL10096 |
| 211132 | JIMMY'S COAL SALES CO INC | 5/27/2008 | \$59,392.03 | PO BOX 26799 | A567654 | 6/16/2008 | QUAL10096 |
| 208791 | THOMPSON PETROLEUM CORPORATION | 1/2/2008 | \$33,083.79 | 2480 SOUTH CLARES AVENUE | 48617 | 1/9/2008 | 990924 |
| 211131 | SPRINT PETROLEUM CO LLC | 1/2/2008 | \$33,083.79 | 600 S MAIN ST | 45840-3295 | 1/17/2008 | 990924 |
| 202771 | BILLARD SPAHR ANDREWS | 5/30/2008 | \$20,884.80 | 699 13TH ST NW, STE 1000S | 5564321 | 12/18/2008 | 2008056295 |
| 220493 | BILLARD SPAHR ANDREWS | 5/30/2008 | \$20,884.80 | 125 MARKET ST, 51ST FL | 5564321-34 | 6/20/2008 | 2008056295 |
| 210128 | ASA PETROLEUM COMPANIES INC | 2/15/2008 | \$5,367.49 | 28999 WICK RD | 481456 | 2/25/2008 | 569950 |
| 221988 | ASA PETROLEUM COS INC | 2/15/2008 | \$5,367.49 | 28999 WICK RD | 48145-A | 11/21/2008 | 569950 |
| 200555 | REAL ESTATE TEN INC | 1/4/2008 | \$22,756.91 | 25801 NORTHWESTERN, STE 215 | 3454556 | 1/17/2008 | 41932CM |
| 223159 | RELOCATION AMERICA | 1/4/2008 | \$22,756.91 | 25801 NORTHWESTERN, STE 215 | 6575436 | 1/8/2008 | 41932CM |

Similar names

Some with same address