Presentation to the Association of Certified Fraud Examiners

Finishing the Job: Recovering Diverted Assets

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Asset Tracing and Recovery

Horse-loving money manager took sandhogs for $42 million ride, prosecutors claim

Hassan Nemazee, former big-time Democratic donor, gets 12 years for $292 million Ponzi scheme
Agenda

- Asset Tracing and Recovery
- Freezing Assets
- Financial and Commodities Flow Analysis
- Investigative Techniques
Asset Tracing and Recovery

- Approximately 97 percent of criminal proceeds are never recovered (IAAR 2011)
- Evaluating recovery from targets and pursuing third parties
- Gatekeepers and intermediaries
- Forfeiture of assets and substitute assets
Freezing Assets

- Identifying assets to be frozen and recovered
- Examples of preemptive or extraordinary relief:
  - Mareva injunctions (freezing orders)
  - Anton Piller orders (authorizing civil search and seizure of evidence)
  - Mini-Anton Piller orders
  - Norwich Pharmacal/Bankers Trust document disclosure orders
Freezing Assets (cont’d)

- Asset arrest
- System for valuation of assets
- What freezing orders are/what they do
- What freezing orders are not
- Discharge of freezing orders
- Asset holding and jurisdictional issues
- Grounds for a freeze order
Freezing Assets (cont’d)

Considerations in seeking a freeze order:

- Mareva by Letter
- Attachment
- Injunction
Financial and Commodities Flow Analysis

- Following the flow of funds
- Forward and reverse tracing
- Analysis of bank records
Financial and Commodities Flow Analysis (cont’d)

Typical banking records:

- Deposit tickets
- Checks drawn
- Cashier’s checks
- Foreign currency
- Outgoing wire transfer orders
- Incoming wire transfers
- Money orders sold
Financial and Commodities Flow Analysis (cont’d)

Typical records associated with checking accounts:

- Monthly statement
- Signature card
- Checking account application
- Canceled checks (checks written on the account)
- Credit memos
- Debit memos
Financial and Commodities Flow Analysis (cont’d)

![Check Image](image-url)
Financial and Commodities Flow Analysis (cont’d)

Once the records are obtained or gathered, analyze them to determine:

- Money deposited to the accounts
- Money transferred from the account by cash withdrawal, check, debit memo, or wire transfer
- Increases and decreases in account balances
- A summary of deposits and withdrawals
- A summary of checks written on the account
- A summary of wire transfers into or out of the account
Financial and Commodities Flow Analysis (cont’d)

- Dates
- Amounts
- Check numbers
- Payees
- Bank endorsements
Financial and Commodities Flow Analysis (cont’d)

Business records are kept in an informal or complex fashion, but in most cases they exist and can be analyzed.

Records also should be scrutinized for such things as:

- Odd notations on business documents, which might be codes for money movements or assets or fronts and nominees
- Business transactions that make no sense or seem to have no apparent business purpose
Financial and Commodities Flow Analysis (cont’d)

Analysis of tax returns
Ownership of assets
Financial and Commodities
Flow Analysis (cont’d)

Indirect methods of financial analysis

Net Worth Analysis

\[
\text{Begin with} \quad \text{Assets} \\
\text{less} \quad \text{(Liabilities)} \\
\text{equals} \quad \text{Net worth} \\
\text{less} \quad \text{(Prior year’s net worth)} \\
\text{equals} \quad \text{Increase in net worth} \\
\text{add} \quad \text{Known expenses} \\
\text{equals} \quad \text{Total net worth increase} \\
\text{less} \quad \text{(Funds from known sources)} \\
\text{Equals} \quad \text{Funds from unknown sources}
\]
Financial and Commodities Flow Analysis (cont’d)

Indirect methods of financial analysis

Expenditures Analysis

*Begin with* Known expenditures

*less* (Funds from known sources)

*Equals* Funds from unknown sources
Financial and Commodities
Flow Analysis (cont’d)

Indirect methods of financial analysis

Bank Deposits Analysis

*Begin with* Total deposits to all accounts

*less* (Transfers and re-deposits)

*equals* Net deposits to all accounts

*plus* Cash expenditures

*equals* Total receipts from all sources

*less* (Funds from known sources)

*Equals* Funds from unknown sources
Investigative Techniques

Analytic methodologies in data compilation and analysis

- **Data Summaries**
  - Excel/Access
  - Charts/graphs
  - Pivot tables

- **Data Visualization**
  - Link charts
  - Commodity flow charts
  - Time-series analysis
Investigative Techniques (cont’d)

Evidence establishing probable cause that the property was either acquired from proceeds of illegal activity, or that it facilitated or was an instrumentality of crime.

- Compulsory power to obtain documents, information, and testimony

- Search warrants

- Computer seizures and evidence recovery

- Electronic surveillance

- Physical surveillance
Investigative Techniques (cont’d)

- Requests for international assistance
  - Formal
  - Informal
- Undercover operations
- Garbage pickups
- Recording conversations with one party consenting
  www.pimall.com/nais/n.tel.tape.law.html
- Professional societies
- Internet and public record data searches
THANK YOU FOR YOUR PARTICIPATION!

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