

# Taking the Profits out of Crime and its Attendant Costs

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# What are the Outcomes an Investigator Seeks

- An investigator role is to seek the truth and uncover facts that may support the following applications under POCA:
  - Cash seizure
  - Money laundering prosecution
  - Civil recovery (non conviction based forfeiture)
  - Forfeiture post conviction

# OUR VITAL STATISTICS (Sept 2017)

Asset Types	Quantity	Estimated Value	Comments
Real Property	97	1,798,095,491	Forfeited & Restrained
Motor Vehicles	79	104,614,004	Forfeited & Restrained (11 in the custody of FID)
Restrained Bank Accounts	137	304,489,168	Including funds held in escrow
Forfeited Bank Accounts/ Cash	26	255,614,757	
Cash Seizures	1007	1,192,933,130	

# Criminal/Legal Proceedings (2017)

- Arrest of 27 persons;
- 61 Money-laundering laid;
- 37 Search Operations
- 69 Production Orders
- 5 Customer Information Order;
- 4 Disclosure Orders
- Some key decisions : section 5 judgment on post conviction forfeitures, decisions on the processes for commencing cash seizure cases, decisions on the legal identity of the Assets Recovery Agency, decisions on the appointment of Director Receiver under POCA, decisions on the use of declarations in civil courts to influence criminal trials, decision on the legal obligations of Attorneys under POCA

# Resources Used in an Investigation

- Human resources – forensic examiners, police officers, attorneys, judges together with specialized training and capacity building.
- Financial cost - Outside counsel, receivers, expert witnesses, IT resources, overseas enquiries and accommodation.
- Investment in partnerships - joint training, MOU's, strategic meetings, international enquiries and Egmont membership.
- Strong overarching legislative framework with the appropriate investigatory/confiscatory tools
- Strong Institutional Framework: institutions that are competent, well resourced, subject to ethical requirements.

# A Typical Investigation

- A typical investigation involves the work of a police officer, forensic examiner, attorney and private witnesses (e.g. financial institutions).
- On average a typical cash seizure takes 50 hours to investigate.
- Money laundering and civil recovery- ranges from 50 hours to hundreds of hours depending on the complexity of the case.
- Court orders often cost our local partners (e.g. financial institutions) time and expense to locate, copy and certify requested documents
- Some cases take months, or even years to complete and often entails numerous appeals as well as liaising with international partners.
- In just one of our cases (civil recovery), there were six decisions from the Supreme Court that were appealed to the Court of Appeal and two of these are now moving to the Privy Council.
- In that case, the cost of counsel is running at several million dollars and the matter has not yet reached trial.

# Process Involved in an Investigation

- An investigation may be categorized as simple to complex.
- Resources will be allocated based on the size and nature of an investigation.
- Within the FID all cases are considered by a Tasking and Coordinating Group (TCG). Depending on the nature of the investigation, consideration is given to the personnel requirement, public interest and sometimes the cost/benefit of undertaking an investigation.
- Conflicted at times as regards the cost/benefit approach as opposed to the disruption effect

# Skill Set of an Investigator

- To be successful an investigator/forensic examiner must possess the following skill set:
- **Analytical and Diligent** - The investigator and forensic examiners must look at every detail of vast volumes of financial records and other data.
- **Tenacity** – Explore every avenue even when some appear to be dead ends.
- **Communication and Interview Skills** - Interviews are often the cornerstone of any investigation. Our investigators must be persuasive, personable and professional. FID has moved to the digital recording of interviews in line with international best practices.



# Skill set of an Investigator

- **Honesty and Ethics** – Even a perception of dishonesty will taint an investigation.
- **Technical Skills and Knowledge** - Investigators often use technology to assist in their investigations such as Cellebrite and Encase (cyber examination of digital devices).
- **Knowledge of the Law** -Investigators must know the laws surrounding the case. Research skills are also critical.

# Who Can Investigate Under POCA

POCA designates certain persons as authorised investigators. These persons have the powers to make specific applications to the court using the investigatory tools contained in the law and these include:

- ❖ Customer Information Orders
- ❖ Disclosure Orders
- ❖ Account Monitoring Order
- ❖ Search warrants

# Powers of the FID under FIDA

- In addition to the powers contained within POCA, FID was given its own statutory status through the Financial Investigations Division Act (FIDA).
- The FID can make similar investigatory applications in the lower court

# Collaboration and Cooperation

- For any successful investigation there needs to be effective co-operation and collaboration at the local and international level. Entities that contribute significantly in any typical investigations are:

## **Local**

- Financial institutions – supply of information pursuant to court orders
- Government entities such as MOCA, TAJ, FSC, BoJ, COJ, NIS, Customs, PICA and other law enforcement and regulatory agencies.

# Collaboration and Cooperation

## Overseas

- Memoranda of Understanding with overseas law enforcement agencies assist greatly in providing intelligence and information to the Division.
- MLAT –This is utilized in most of the major money laundering cases.
- This involves going through the Central Authority to get evidence (banking information, property information, etc.) from foreign countries and vice versa

# Successes Amid Challenges

- FID has a long history of working with a number of overseas agencies
  1. FBI, DEA & USICE (eg Op Sweetgrape – US\$700,000 forfeiture order),
  2. DEA (R v Deloris Miller - US\$1.8 million plus other assets)
  3. DEA (Op Seasoned Rice – forfeiture of US\$533,284 and J\$1,321,536)
  4. DEA (Operation Lucky Dollar – forfeiture of real estate valued US\$3.16 million.
  5. IRS (Op Cheat – forfeited US\$881,000 repatriated to US Treasury Department (IRS)

# Operation Queen Bee

## ARA v Deloris Miller

- This investigation was initiated on June 26, 2007, two (2) months after the passage of the Proceeds of Crime Act 2007 following the seizure of US\$1,305,300.00 million wrapped in aluminum foil concealed in a freezer compartment of a refrigerator from Deloris Miller.



# Investigative Strategy

- Joint investigation with Transnational Crime and Narcotics Division (TCND), the Drug Enforcement Administration and the Division.
- Success of the case was as a result of the combined efforts of Police, Forensic Examiners and Attorneys



# Outcome

- Use of restraint orders, disclosure orders
- Cooperation between local and overseas law enforcement.
- MLAT to obtain evidence from overseas.
- The case took 8 years to be fully adjudicated.
- A recovery order of over accumulated funds of US\$1.8 plus other assets (including real and personal property) was granted in 2012 but was appealed.
- In 2015, the Court upheld the recovery order.
- In 2017, FID executed orders of possession to evict Ms. Miller from the property.

# Operation Seasoned Rice

- An intelligence led motor vehicle stop resulted in the forfeiture of cash (US\$533,284 and J\$1,321,536) and the conviction of Dr. Jephthah Ford for attempting to pervert the course of justice.
- Two Surinamese nationals were interviewed after a motor vehicle stop and found in the possession of a large volume of money.
- During the investigation, they claimed the cash was for payment of rice imported from Suriname.
- Following enquiries at PICA and Jamaica Customs Agency this was disproved.

# The Investigation & Outcome

- The cash was seized under POCA and the Surinamese nationals charged with the possession of criminal property and conspiracy to possess criminal property.
- At the first court appearance the judge dismissed the matter asking rhetorically if tourists could not come to Jamaica and carry large amounts of cash. However the proceedings for the cash seizure continued through the civil courts.
- During the investigation an approach was made to the lead investigator to discontinue the case and return the money.
- Covert techniques were used to record the interaction of the investigator and Dr. Ford was convicted in November, 2017 and sentenced to six months imprisonment for trying to pervert the course of justice.
- The cash was successfully forfeited in 2016

# Operation Cheat

- Pamela Watson, CPA, apparent Jamaican success story in South Florida.
- Philanthropist and lobbyist for the Jamaican community in the USA.
- Used her accounting firm to prepare false tax returns and run an income tax refund fraud scheme.
- Inflated tax refunds of her clients without their knowledge and diverted the excess for her personal gain.



# The Allegation & Investigation

- Defrauded IRS in excess of US\$3.6m between 2011 and 2014.
- FID intelligence system identified the probe in the USA and subsequently received STRs on the defendant's accounts in Jamaica.
- FID contacted IRS for joint investigation.



# Laundering Scheme

- Over US\$1.18m traced to banks accounts at several financial institutions in Jamaica.
- Funds used as security for loans for an entertainment business.
- She also made loans to prominent individuals involved in real estate and solid waste management.
- These repayments utilized by Ms. Watson as a form of money laundering.



**Approved**

**Co-Borrower**

**I. TYPE OF MORTGAGE AND TERMS OF LOAN**

Mortgage Applied for:  VA  Conventional  Other (specify): Agency Case

Fixed  Adjustable  Other (specify):

Interest Rate: %

Annual: \$

Subject Property Address (street, city, state & ZIP):

**II. PROPERTY INFORMATION AND RISK**

Legal Description of Subject Property (attach description if necessary):

Purpose of Loan:  Purchase  Construction  Other (specify):  Will be  Newly Built

Refinance  Construction/Refinance

Complete this line if construction or construction-purchase loan.

Year Lot Acquired	Original Cost	Annual Building Cost	Year of Lot	Cost
\$	\$	\$		\$

Complete this line if purchase or refinance loan.

Year Acquired	Original Cost	Annual Building Cost	Year of Refinance	Describe Improvements	Cost: \$
\$	\$	\$			\$

This will be held in what Year(s):

Month in which Title will be held:

Series will be held in:  This Single  Leasehold (if lease specify term)

Source of Down Payment, Cash Contribution, etc. (attach supporting receipts):

**III. BORROWER INFORMATION**

**Co-Borrower**

Relationship to Subject Property:  Owner  Tenant  Other (specify):

Co-Borrower's Name (include II, or III, if applicable):

Social Security Number: \_\_\_\_\_ Date of Birth (MM/DD/YYYY): \_\_\_\_\_

Has a Phone (list area code): \_\_\_\_\_ DOB (MM/DD/YYYY): \_\_\_\_\_

Yes/No

Yes/No

Married  Unmarried (specify single, divorced, widowed)  Married  Unmarried (specify single, divorced, widowed)

Dependent(s) not listed by Co-Borrower: \_\_\_\_\_ Dependent(s) not listed by Borrower: \_\_\_\_\_

Yes/No

Yes/No

Present Address (street, city, state, ZIP): \_\_\_\_\_  Once  Rent \_\_\_\_\_ No/Yes

Present Address (street, city, state, ZIP): \_\_\_\_\_  Once  Rent \_\_\_\_\_ No/Yes

Mailing Address, if different from Present Address: \_\_\_\_\_ Mailing Address, if different from Present Address: \_\_\_\_\_

If residing at present address for less than one year, complete the following:

Former Address (street, city, state, ZIP): \_\_\_\_\_  Once  Rent \_\_\_\_\_ No/Yes

Former Address (street, city, state, ZIP): \_\_\_\_\_  Once  Rent \_\_\_\_\_ No/Yes

**IV. EMPLOYMENT INFORMATION**

**Borrower**

Name & Address of Employer: \_\_\_\_\_  Self-Employed

Yes, on this job

Yes, employed in this line of work/business

Business Title/Type of Business: \_\_\_\_\_ Business Phone (list area code): \_\_\_\_\_

**Co-Borrower**

Name & Address of Employer: \_\_\_\_\_  Self-Employed

Yes, on this job

Yes, employed in this line of work/business

Business Title/Type of Business: \_\_\_\_\_ Business Phone (list area code): \_\_\_\_\_

If employed in various positions for less than one year or if currently employed in more than one position, complete the following:

Former Address (street, city, state, ZIP): \_\_\_\_\_  Once  Rent \_\_\_\_\_ No/Yes

Former Address (street, city, state, ZIP): \_\_\_\_\_  Once  Rent \_\_\_\_\_ No/Yes

Monthly Income: \_\_\_\_\_ Monthly Income: \_\_\_\_\_

\$ \_\_\_\_\_ \$ \_\_\_\_\_

Business Title/Type of Business: \_\_\_\_\_ Business Phone (list area code): \_\_\_\_\_

Business Title/Type of Business: \_\_\_\_\_ Business Phone (list area code): \_\_\_\_\_

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# The Outcome

- Several accounts identified at two securities dealers and restrained after comprehensive forensic analysis.
- On indictment of Ms. Watson, a bank treated one of the loans as in-default, resulting in \$29m in hypothecated funds, being paid to the institution.
- Plea agreement:
  - 5+ years sentenced
  - US\$900,000.00 forfeited and repaid to the US Treasury (IRS) from the restrained accounts in Jamaica.
- Recently, another financial institution identified an account with over US\$100,000.



# Operation Lucky Dollar

- FID recognized the involvement of Jamaicans living overseas in transnational organized crimes.
- FID utilised intelligence gathering systems to identify Jamaicans with foreign predicate offences
- System identified Damian “Lucky” Edwards in February 2016.





# Background

- Edwards, his wife and two other associates charged with drug trafficking and money laundering offences after a three month investigation in Columbus, Ohio.
- Investigation managed by the Central Ohio (HIDTA) Task Force comprising seven LEAs – DEA, IRS, USICE etc.
- Items seized, included:
  - 5 motor vehicles
  - 3 firearms
  - 3,500 lbs of marijuana
  - US\$1.3 million cash



# Cooperation

- FID contacted DEA in order to undertake a joint investigation.
- FID initiated an investigation resulting in the identification of four properties in western Jamaica.
- Identified a corporate vehicle used by the EDWARDS to own properties in Jamaica.
- All four properties, valued at US\$3.16, forfeited in the US proceedings.



# Forfeited Apartment – US\$800,000



# Forfeited Apartment – US\$1,500,000



# Post Forfeiture Cooperation

- FID & US Marshalls managing properties
- Currently earning approximately US\$5,000 per month in rental income.
- Sharing of proceeds between GOJ and US Government on disposal.
- Joint investigation led to the indictment of another Jamaican in the USA for money laundering



# Staff Hours Expended on Investigation

Activities	Estimated Hours
Public research on Edwards (online etc)	6
Preparation of financial profile on Edwards and associates	240
Identify & locate assets	24
Conference calls/correspondence with overseas and local agencies	16
Collection of witness statements	160
Interview of associates of targets	80
Surveillance on associates and businesses linked to Edwards	120
Preparation & filing of affidavit for court orders	96
Service & execution of court orders	16
Analysis of bank records & uplifted documents from safe deposit box	80
Draft affidavit and application for restraint order	160
Visit of restraint property with AMT and US Marshalls	160
<b>Total</b>	<b>1,158</b>

# Conclusion

- Financial investigations require
  - Partnership/collaboration
  - Tenacity
  - Diligence
  - Perseverance
  - Financial and human resources

However for us to reap the true benefits of financial investigation there has to be a more widespread use of POCA across Jamaican law enforcement agencies in general. Hopefully additional outreach and the Asset Recovery Incentivisation Scheme can help us get there.

The end

