

Money Laundering

Solicitors are regarded as key professionals in both the business and financial world. They help with vital transactions, and many of these underpin our economy. The Government therefore regards them as having a significant role to ensure that their services are not used for criminal purposes. The Government regards money laundering as well as the financing of terrorist activities as being amongst the most serious threats to our society.

Definition

Money laundering can be defined as the process by which the proceeds of crime, and the true ownership of those proceeds, are changed – so that the proceeds will then appear to come from a legitimate source. The Proceeds of Crime Act expands upon this definition, and shows that it is not just a deliberate attempt to obscure the ownership of legitimate funds which comes under this heading. For example, benefit fraud, and minor tax evasion will qualify as money laundering. The profits from minor crimes will also qualify under this definition.

Three Phases

There are three acknowledged phases for money laundering – placement, layering and integration.

Placement - means that cash generated from crime is placed into the financial system. Banks and financial institutions now have had to get really well developed anti money laundering procedures in place. Criminals therefore look for other ways of placing their cash within the financial system. Solicitors are very often targeted because they commonly deal with client money.

Layering – having placed the proceeds of crime into the financial system, layering obscures their origin. This is done by passing money through complex transactions. This will very often be done by creating companies, trusts, and taking money to different and numerous jurisdictions and tax havens. Criminals will try and target solicitors at this stage too to make detection very difficult.

Integration – having obscured the source of the funds, criminals then bring the funds back above the radar as legitimate funds or assets. They do this, for example, by investing their money in legitimate businesses or other forms of investment. At this stage they will often use solicitors to buy properties for them, set up trusts, establish a company, and even settle litigation. Once the money has been integrated, this is regarded as the most difficult stage of money laundering to try to detect.

Proceeds of Crime Act

This Act was passed in 2002, and solicitors have had to make themselves very aware of its contents. Apart from establishing what the principal money laundering offences are, this Act creates other offences. Solicitors can therefore be committing an offence if they fail to report suspected money laundering. Offences will also be committed if they tip off their clients about a money laundering disclosure, or tipping them off about a money laundering investigation and therefore prejudicing investigations into money laundering. A whole series of regulatory “must do’s” have been set in place under this Act, and under the Terrorism Act 2000. Solicitors ignore them at their peril.

I.D

Do not, therefore, be surprised when your solicitor asks you to provide proof of identity as part of the money laundering process. You will need to provide proof of who you are, and where you live. There are numerous documents which you will need to produce such as your driving licence or passport, utility bill, credit card statement and so on. The solicitor will take copies of these documents and hold them on their files and database. Unknown to you, if your solicitor suspects that an offence under the Proceeds of Crime Act may have been committed, he is under a duty to report that fact

to the Serious Organised Crime Agency, who then advise on the appropriate steps to take (if any).

Barnstaple

We think that money laundering would not affect us in this area. However, don't you believe it. On 2nd March this year John Morris, a semi-retired property salesman was jailed for four years for money laundering. He admitted in the Crown Court that he had laundered almost £4 million following an HMRC investigation. He was actually caught red handed (and probably red faced). A trained sniffer dog showed an interest in him as he waited to board a ferry from Dover to France in June 2008. When challenged, he produced €63,000 Euros and £2,600 Sterling from his underwear. His excuse was that he was dealing with money on behalf of "clients" to purchase furniture for Spanish properties. He could not produce any evidence to support his claim. The HMRC investigation found that he had used a money exchange bureau in Worthing approximately 180 times between April 05 and June 08, exchanging cash from Sterling into Euros, and then crossing the Channel and depositing money there on behalf of his "clients". His sentence sent out a clear message that money laundering will simply not be tolerated.

Lancashire Couple

Take also the case of a Lancashire couple arrested for money laundering. A £50 banker's cheque was altered by them to read £26,500. Unknown to them it had been stamped with a unique ID number. The police raided their house and found a bank statement which didn't help their case. It showed thousands of pounds paid in by two people who had previously reported a number of fraudulent transactions on their account. The fraudsters got prison terms of 9 and 6 months respectively, suspended for two years and were ordered to do 50 hours of unpaid work.

Action

Do not be surprised, therefore, if you find your bank, accountant, solicitor and others being exceptionally strict with you when it comes to your legal and financial affairs. If

they themselves show a casual and too relaxed an approach, they may be committing offences, and may face imprisonment. Understand, therefore, where they are coming from when you are asked to produce your ID. If you think that you may have inadvertently become involved in money laundering activity, take legal advice as quickly as possible.

John Busby

Busbys Solicitors

Bude and Holsworthy