

Fraud Newsletter No. 37

November 2019



CASES

Legal Personality and Jurisdiction: the Bank was not a legal person under Polish law. However, it was sufficient that it was part of a larger organisation (a parent bank) which did have a legal personality and which could assert its rights under Polish law: [Centraal Justitiele Incassobureau, Ministerie van Veiligheid en Justitie v Bank BGZ BNP Paribas S.A. w Gdańsku](#) [2019] EUECJ C-183/18_O (Opinion - AG Pikamae).

SENTENCING & CONFISCATION

5th DPA - Serco Geographix approved by William Davis J: fraud x3 and false accounting x 2 re true extent of profits of Serco Ltd and its MOJ electronic monitoring contract. £19.2 financial penalty and £3.7m SFO costs (£70m compensation to MoJ already paid). [SFO news summary](#): 4 Jul 19. [SFO v Serco Geografix Ltd](#): [2019] Lloyd's Rep FC 518.

Disproportionality - confiscation. As a general principle confiscation is not disproportionate because D would or might have accrued valuable rights if she had acted honestly (stealing own pension contributions) [Whittle](#) [2019] EWCA Crim 1897. [Shabir](#) [2008] EWCA Crim 1809, [2009] 1 Cr.App.R.(S) 84 distinguished.

Fraud – dying Defendant. Guilty plea by accounts and office clerk. Now diagnosed with stage 4 bowel cancer and undergoing palliative chemotherapy; 2 young children; life expectancy 12 – 15 months. 6 year fraud by raising false invoices: £565k loss to a family owned business; result - key staff members made redundant. Usual starting point 5 years less discount for plea, character, remorse and children. Exceptional circumstances here – 18 months: [Newsome \(Chantel\)](#) [2019] EWCA Crim 921, [2019] 2 Cr. App. R. (S.) 49.

BILLS, STATUTES & STATUTORY INSTRUMENTS

Nothing of moment

CONSULTATIONS, GUIDANCE, CIRCULARS AND REPORTS

[At Your Service: Investigating how UK businesses and institutions help corrupt individuals and regimes launder their money and reputations](#): Transparency International Report Oct 19 and [Bibliography](#).

[Consultative Document: Introduction of guidelines on interaction and cooperation between prudential and AML/CFT supervision](#): BSBS (Basel Committee on Banking Supervision) Bank for International Settlements: 8 Nov 19. [Summary](#).

[Economic Crime: Consumer View](#): HoC Treasury Committee: 1 Nov 19.

[EU Opinion on Electronic Evidence in Criminal Matters](#): European Data Protection Supervisor: [Press Release](#): 6 Nov 19.

[Facing future corruption challenges – trends of the next decade](#) 29 Oct 19 and [Future anti-corruption trends – 4 reasons to be optimistic](#): 7 Nov 19: Transparency International.

[FATF – speech on FATF Strategic Review](#): David Lewis, FATF Ex. Sec. 18 Nov 19.

[Human Right and Criminal Prosecutions: General Principles](#): CPS Legal Guidance: updated 18 Sep 19.

[Legal Statement on the Status of Cryptoassets and Smart Contracts](#): LawTech Delivery Panel 18 Nov 19. [Legal Statement Launch speech](#) by Sir Geoffrey Voss.

CO seeks views on application for powers under

POCA: [Consultation: Proceeds of Crime Act](#) ICO 8 Nov 19: consultation to close on 6 Dec 19: [ICO Summary](#).

[SAR Glossary Codes and Reporting Routes](#): NCA 1 Nov 19

[SARs Annual Report 2019](#): NCA 5 Nov 19

[US v. Connolly and the Risk That "Outsourced" Criminal Investigations Might Violate Foreign Blocking Statutes](#): Frederick TY Davis: Compliance & Enforcement: NYUSL: 6 Nov 19.

NEWS

[Cyber-crime site selling hacking tool taken down following international operation](#): 14.5k versions of IM RAT (Imminent Monitor Remote Trojan) sold. IM RAT allows hackers full access to infected computers. NCA 29 Nov 19

Fraud Issues in Main Elections Manifestos:

[Conservatives](#) - new national cybercrime force; strengthen NCA to tackle threats posed by fraud (p 19);
[Labour](#) - strengthened response to economic crime; new national strategies on cybercrime and fraud (p 45);
[Lib Dems](#) - new Online Crime Agency to tackle activity such as personal fraud (p 69-70).

[Watch out for fake emails claiming to be Action Fraud](#): Action Fraud 7 Nov 19.

[Law Society Warning Notice - Compliance with the money laundering regulations - firm risk assessment](#) updated 29 Oct 19. Too many firms do not have risk assessment in place.

[Lord Hain alleges HSBC and Standard Chartered enabled corruption in South Africa under Zuma](#): BBC News 18 Nov. 19.

NCA: [£8.1m proceeds of unlawful conduct recovered](#) in civil recovery and tax investigation: 4 Nov 19.

PRA: [Citigroup Global Markets fined £44m re UK operations](#) for failures of regulatory reporting governance and controls: [Final Notice](#): 26 Nov 19.

SFO: [Alstom fined £15m for bribery over Tunisian Metro](#) and £ 1.4m costs following earlier conviction (April 2018) for conspiring to corruptly obtain an €79.9 contract: 25 Nov 19. [Confiscation orders for \\$413k](#) for 2 men in 17m solar panel fraud: 27 Nov 19 - ([conviction 29 Aug 18](#))