

THE FACILITATION OF MONEY LAUNDERING
BY PROFESSIONALS:
CHALLENGING THE OFFICIAL NARRATIVE

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THE RESEARCH

- Qualitative
- Interviews
 - Law enforcement
 - Professional/regulatory bodies
 - CPS
 - Practising solicitors and accountants
- Cases (20)
 - SDT transcripts
 - Court of Appeal transcripts
 - Media reports
 - Attended SDT disciplinary hearing



A GROWING TREND?

- Increasing focus on the role that legal and financial professionals play in the facilitation of money laundering
- A growing problem

Legal and financial professionals have become an increasingly 'common element' in complex money laundering schemes, particularly those involving 'significant financial fraud and organised crime'

(Global Money Laundering and Terrorist Financing Threat Assessment, FATF 2010: 44).

A GROWING TREND?

- *A critical role*

'... the key doors for facilitating criminal financial transactions
and keeping a veil of opacity on criminal assets'
(WEF 2012: 4)

- Range of legislative and policy measures aimed at prevention
 - 'Gatekeepers'
 - UK context: Money Laundering Regulations and Proceeds of Crime Act (POCA) 2002

OFFICIAL CONSTRUCTIONS

- Lack of understanding of scale or nature
- Limited academic attention and little empirical research
- Official narrative and construction can dominate:
 - A critical role
 - Dichotomy:
 - i. Knowing/witting involvement
 - ii. Unknowing/unwitting involvement
 - Rational actors, choosing to become involved for financial reasons, taking opportunities
 - No appreciation of complexity, or diversity of actions and behaviours

WHAT THE DATA SHOW: COMPLEXITY, DIVERSITY,
AND A 'GREY AREA' OF INTENT

CASE 1: PAUL WINTER MORRIS

- Partner, small solicitors firm in Leek, Staffordshire
- Convicted 2003: 3x 'assisting another to retain or control benefit of criminal conduct' (POCA s.328)
- 5 years imprisonment; struck off Roll of Solicitors
- Involved in laundering £8million – proceeds of large-scale VAT fraud carried out by Raymond Woolley
- Funds transferred from two bank accounts into Morris' firm's client account
- Individual disbursements made to Woolley, various company bank accounts, to cover purchase of yachts, cars etc.

CASE 1: PAUL WINTER MORRIS

- **Means of facilitation:** use of client account
- **Financial benefit?**
- **Knowledge/Intent**
 - Complicit, active participant

“... allowed yourself to play an important role in the laundering of a very large sum of money and did so, in my judgement, and I have sat through this case and heard all the evidence and heard your explanation, you did so in my judgement knowing that it represented the proceeds of criminal conduct.”

[Sentencing remarks]

CASE 2: ANDREW TIDD

- Conveyancing solicitor, Liverpool
- Acted for Nevzat Kocabey in purchase of two houses
- £200,000
- Deposits of £26,000
- Proceeds of drug offences
- **Means of facilitation:** conveyancing/property

CASE 2: ANDREW TIDD

- **Knowledge/Intent**

- Transactions occurred while Kocabey was in custody for drug offences
- Tidd believed custody was related to business dispute, no suspicions Kocabey was involved in drugs

“It was clear that [Tidd] had not known or, indeed, suspected that [Kocabey] was involved in money laundering. Rather, [Tidd] had had information which he received in the course of his legal practice which gave reasonable grounds for knowing or suspecting that [Kocabey] was involved in money laundering but he had not made the required disclosure.”

[Solicitors Disciplinary Tribunal transcript]

CASE 2: ANDREW TIDD

- Admitted that “the fact that someone had been in custody and wanted to buy property should have been grounds for suspicion”
- He had “not acted recklessly”, there was “never any dishonesty on his part”
- Believed Kocabey was in custody because of a business dispute, based on information from wife
- No knowledge that Kocabey was involved in drugs
- Tribunal concluded 5 counts “all flowed from one error of judgement, which he made in the first instance”

[Solicitors Disciplinary Tribunal hearing/transcript]

CASE 2: ANDREW TIDD

- Decision to proceed with transactions
- ‘Normal’ transactions

“should have been on notice that there were circumstances which required further enquiry [...] all of the circumstances had given him comfort. The transactions on which he had been instructed by [Kocabey] were entirely normal for a businessman engaged, as [Kocabey] was, in the fast food business. [...] Whilst [Tidd] should have been alert to the reasons for [Kocabey’s] detention the Tribunal accepted that he had accepted the explanation given by [Kocabey’s] wife, which in turn tied in with other information held by [Tidd]. [Tidd] may have been naïve, but he had not acted with any malice.”

[Solicitors Disciplinary Tribunal transcript]

CASE 2: ANDREW TIDD

- **Financial benefit?**
- Received 4 month suspended sentence
- Fined £2,500 by SDT
- 'Failure to Report: Regulated Sector' (s.330)

FAILURE TO REPORT: REGULATED SECTOR (S.330)

- they know or suspect, *or have reasonable grounds to know or suspect*, that another person is engaged in money laundering; and
- the information or other matter on which their knowledge or suspicion is based, *or which gives reasonable grounds for such knowledge or suspicion*, comes to them in the course of a business in the regulated sector; and
- the person does not make the required disclosure as soon as is practicable after the information or other matter comes to him.

(POCA 2002, s. 330 (1-4), emphases added)

CONCLUSIONS

- Considerable diversity in actions and behaviours involved in what is considered the facilitation of money laundering by professionals, and for which professionals can be convicted of money laundering offences
- Variation in financial benefit received – majority no direct financial benefit
- Few cases active, complicit involvement; in most, intent and knowingness less clear – errors of judgement, individual decisions in context of occupational role
- Nature of facilitation of money laundering by professionals complex and multi-faceted – a complexity not appreciated by official constructions
- Implications for response