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***The Recovery of Stolen Wealth:
Time for a New Model?***

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The recovery of wealth stolen from government coffers by dishonest politicians, greedy government contractors, bureaucrats (or more properly kleptocrats) and others that prey on national patrimony is not a new problem. One need only remember that Cicero successfully prosecuted Gaius Verres in 70 B.C. for his corrupt governance of Rome's Sicilian province to realize that corruption has been around for a long time.¹

Today the issue of large scale serious corruption seems to have gone "viral" with ever-increasing reports of large scale government corruption being reported from every corner of the world. The difference today is a growing sense (particularly lately as the pressure on governments to provide more services with less income leads to ballooning deficits) that the patrimony of a country belongs to all the people of the country and not just a chosen few or self-appointed individuals who reap illicit benefits from the hard work of their fellow citizens and/or the bounty of natural resources bestowed on the country.

This growing awareness is reflected by the promulgation and adoption of various multilateral and bilateral treaties in the past several years seeking to stem the flow of corruption and bribery. As well, new domestic laws that seek to equip national legal systems with tools to combat the same evils, have begun to be enacted around the world.

Many of these treaties and national laws seek to use the criminal justice system as either the sole or predominant mechanism to stop this flow of unlawfully obtained proceeds of corruption. The focus of many local laws and

¹<http://en.wikipedia.org/wiki/Cicero>

treaties, such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions² and the Foreign Corrupt Practices Act (FCPA)³ and its foreign counterparts is to focus on punishing the bribe givers. I would submit that this approach is, at best, dealing with only half of the problem. We have to face the fact that even if we are able to take one company after another out of the “bribe giving” business, there will likely be another to step into its place if the perceived rewards are high enough and the bribe takers are left untouched. In many countries the bribe takers operate with almost complete impunity.

One of the premises of this paper is that the problem of corruption will remain rampant until there is an equal commitment to the punishment of the bribe takers. To be sure, that punishment has to come in part through criminal prosecution of the bribe takers and the bribe givers. However, the recent spate of large fines levied by the U.S. Department of Justice (U.S. DOJ) and the U.S. Securities and Exchange Commission (SEC) point to the limitations of this approach. In the last 20 months the U.S. DOJ and SEC have levied and collected approximately US\$2.7 billion in fines and penalties against companies that have entered into deferred prosecution agreements or settlements on the heels of being charged with violating the U.S. FCPA.⁴ However, large scale corruption goes unchecked. Moreover, the victim states received none of these fines and penalties.⁵ The prosecuted companies are all virtually still in business – perhaps

²<http://www.oecd.org/dataoecd/4/18/38028044.pdf>

³<http://www.justice.gov/criminal/fraud/fcpa>

⁴<http://www.fcpablog.com/blog/tag/titan>

⁵<http://wrageblog.org/2009/02/13/fcpa-fines-where-does-all-the-money-go>

chastised, perhaps not. One wonders if companies will simply build these penalties into their profit margins in the future? Have any senior executives or members of the board of directors gone to jail in these cases? The answer is no. There are some lower-level intermediaries and corporate officers that are being prosecuted or that have been prosecuted and notably a few executives of smaller companies that have been convicted. Many of the big multinational corporations and those that run them that are in a position to engage in such illegal (and yes, immoral) conduct remain largely untouched. Why is that so?

The Balance of Power

To begin to answer this question, we need to first examine the balance of power between the obvious national interest in stopping corruption and those interests that seek to promote and benefit from corruption. The awesome economic power of the modern multinational corporations can be assessed by comparing their annual revenues with their national gross domestic products (GDPs).

Nigeria’s 2009 GDP was 173.4 billion U.S. Dollars which makes it the 44th largest economy in the world. However, the 10 largest companies in the world (by revenue, both public and non public) are:

Name	Revenue (U.S. in Billions)⁶	Industry
a) Wal-Mart	\$408.2	Retail
b) Exxon Mobil	\$310.5	Oil and Gas
c) Royal Dutch Shell	\$278.1	Oil and Gas

⁶As reported in 2008 or 2009

d) BP	\$246.1	Oil and Gas
e) Saudi Aramco	\$233.3	Oil and Gas
f) Toyota Motor Corp.	\$205.0	Automobiles
g) Sinopec	\$202.4	Oil and Gas
h) Samsung Group	\$173.4	Conglomerate
i) Chevron Corp.	\$171.6	Oil and Gas
j) ING Group	\$164.4	Financial Services

Thus, Nigeria's GDP was slightly larger than the 9th and 10th largest companies' revenues (Chevron and ING, respectively). Nigeria's 2009 GDP was virtually equal to Samsung's 2009 Revenue. However, Nigeria's 2009 GDP equals only about 42% of Walmart's (the world's largest company) 2009 revenue.⁷

There are just over 190 countries in the world today. However:

- a) Walmart's 2009 annual revenue is larger than the GDP of 168 of the countries in the world.
- b) Exxon Mobil had more 2008 revenue than the GDP of approximately 159 countries;
- c) Royal Dutch Shell had more 2008 revenue than the GDP of approximately 157 countries;
- d) BP had more 2009 revenue than the GDP of approximately 156 countries;
- e) Saudi Aramco had more 2008 revenue than the GDP of approximately 155 countries;
- f) Toyota had had more 2008 revenue than the GDP of approximately 151 countries;
- g) Sinopec had more 2009 revenue than the GDP of approximately 151 countries;

⁷The GDP sources are from the CIA World Factbook (2009) available at <https://www.cia.gov/library/publications/the-world-factbook/fields/2195.html>.

- h) Samsung had more 2008 revenue than the GDP of approximately 145 countries;
- i) Chevron had more 2008 revenue than the GDP of approximately 145 countries;
- j) ING had more 2008 revenue than the GDP of approximately 144 countries.
- k) Halliburton's 2008 revenue was larger than the GDP of approximately 83 countries.⁸

⁸Walmart 2009 Annual report *available at*

http://cdn.walmartstores.com/sites/AnnualReport/2010/PDF/WMT_2010AR_FINAL.pdf;

Exxon Mobil 2009 Annual Report (page 2), *available at* http://media.corporate-ir.net/media_files/irol/11/115024/XOM_2009F&O.pdf;

Royal Dutch Shell 2009 Annual Report (page 12), *available at* http://www.annualreportandform20f.shell.com/2009/servicepages/downloads/files/all_shell_20f_09.pdf;

BP 2009 Annual Report (page 24), *available at* http://www.bp.com/assets/bp_internet/globalbp/globalbp_uk_english/set_branch/STAGING/common_assets/downloads/pdf/BP_Annual_Review_2009.pdf;

Saudi Aramco Company Profile, Yahoo Finance, *available at* <http://biz.yahoo.com/ic/55/55881.html>;

Toyota 2010 Annual Report (page 3), *available at* http://www.toyota.co.jp/en/ir/financial_results/2010/year_end/summary.pdf;

Sinopec 2009 Annual Report (page 7), *available at* http://english.sinopec.com/download_center/reports/2009/20100329/download/AnnualReport2009.pdf;

Samsung 2009 Profile, *available at* <http://www.samsung.com/us/aboutsamsung/corporateprofile/ourperformance/samsungprofile.html>;

Chevron 2009 Annual Report (page 6), *available at* <http://www.samsung.com/us/aboutsamsung/corporateprofile/ourperformance/samsungprofile.html>;

ING Company Profile, Forbes, *available at* <http://finapps.forbes.com/finapps/jsp/finance/compinfo/IncomeStatement.jsp?tkr=ING>;

Halliburton 2009 Annual Report, *available at* <http://thomson.mobular.net/thomson/7/2982/4186>.

This is not to suggest or imply that any of the companies listed above are in any way involved in or related to any corruption but simply to show the relative economic size of multinational corporations in relation to governments with whom they might do business. These economic powerhouses answer only to a board of directors, not (at least directly) to any legislature or to an electorate. They make decisions unilaterally with the only real considerations being given to profit and loss. Everything else is largely secondary. I hasten to add that there is nothing inherently wrong with that. That is what corporations are designed to do.

However, society must recognize that large multinational business enterprises face powerful pressures to produce ever increasing profits. Unless the economic consequences of improper behavior are such that they can meaningfully affect the profit and loss equation, then improper behavior will be an afterthought at best to most companies inclined to engage in corrupt activities. In short, if you want the attention of large corporations, you have to hit them in their pocket books. Only then will they factor into their economic calculus the cost of violating the rules against corruption. This is the philosophy underpinning the use of punitive damages in civil cases in the United States.

The Cost of Corruption

What is the actual cost of corruption? Unfortunately, despite many efforts there has not yet been a truly reliable metric developed that reveals the true cost of corruption to society.

One such attempt is from a prominent 2007 U.N. Report that was produced as part of the Stolen Asset Recovery Initiative (an updated version of the Report is expected sometime next year) jointly run by the United Nations and the World

Bank.⁹ The Report provides that approximately "2 to 5 percent of global GDP, which amounts to \$800 billion to \$2 trillion in current U.S. dollars, as an estimate of the total funds involved in various illegal [corruption-related] activities." The Report cautions, however, that "[w]hile the numbers are alarming, one should guard against cloaking them with an aura of scientific precision in view of the weaknesses in the estimation methods used." Two common criticisms of the UN Report are that it is merely a summary of the available literature (rather than an independently-conducted "study") and that it is not clear that it fully takes into account "corporate corruption" (as contrasted with publicly stolen assets).

The Asian Development Bank reports¹⁰ that some estimates calculate that as much as US\$30 billion in aid for Africa has ended up in private foreign bank accounts. This amount is twice the annual gross domestic product (GDP) of Ghana, Kenya, and Uganda combined.¹¹ Over the last 20 years, one East Asian country is estimated to have lost US\$48 billion due to corruption, surpassing its entire foreign debt of US\$40.6 billion.¹² An internal report of another Asian government found that state assets have fallen by more than US\$50 billion, primarily because corrupt officials have deliberately undervalued them in trading off big property stakes to private interests or to international investors in return

⁹http://www.unodc.org/pdf/Star_Report.pdf

¹⁰<http://www.adb.org/Documents/Policies/Anticorruption/anticorrupt400.asp>.

¹¹Michelle Celarier. 1996. The Search for the Smoking Gun, *Euromoney* (September): 49.

¹²Philippine Government estimate, cited from *Reuter Newswire*. 1997. Philippines Corruption a Nightmare -Ramos, 11 January. See also *Philippine Star*. 1997. Commission on Audit: P1.2 B Lost to Graft Each Year, 12 June.

for payoffs.¹³ In one South Asian country, government reports indicate that US\$50 million daily is misappropriated due to mismanagement and corruption. The Prime Minister in that South Asian country stated publicly that the majority of bureaucrats and the administrative machinery from top to bottom are corrupt.¹⁴

According to Ngozi Okonjo-Iweala, a former Nigerian finance minister and world famous corruption fighter and now of the World Bank, “[a]n estimated US\$20 and US\$40 billion of funds is said to have been stolen [annually] by corrupt leaders in many poor countries particularly in Africa and hidden overseas.”¹⁵

While the exact amount of stolen wealth or value is hard to pin down, there is consensus in the world today that the amount is staggering and causes a significant drag on the ability of developing countries to push forward with vital economic and social reforms. More importantly, the attempt to scientifically quantify this amount misses the real point.

Another “cost” of corruption is much more subtle and invidious and causes much more damage. This very real cost of corruption cannot be measured in empirical terms. We have to turn to less scientific but much more powerful anecdotal evidence to prove the true cost of corruption.

How can one value that cost to Guatemalan children who no longer receive nutrition as an inducement to attend school? How can you assign a cost to Eastern Europe of untold millions of gallons of water allegedly polluted with

¹³Internal report, cited from *Business Week*. 1993. The Destructive Costs of Greasing Palms, 6 December, p.133.

¹⁴*The News*. 1997. 28 March.

¹⁵<http://www.cgdev.org/doc/event%20docs/Ngozi%20Remarks.pdf>

heavy metals pouring into the Danube? How do you value the life of the baby lost to inadequate medical care when the hospital was not built due to the funds being siphoned off? How do you value the life of the man who died for want of medical care because the funds to buy the new ambulance, were afterwards stolen by corrupt politicians? How does one assign costs to this “evidence” which we all know intuitively has value but is not easily reduced to economic terms?

Arguably the most important and most harmful cost of corruption is its corrosive effect on democratic institutions. Democracy is based on a pact between the people and the government and the currency with which that pact was sealed is faith.

Faith that the government is looking out for the interests of the people and not the economic interests of a powerful few inside and outside the government.

Faith that the hard earned tax dollars of a society are not being squandered.

Faith that the God-given natural resources of a country are being properly exploited to the benefit of the society as a whole and not to feather the nests of a few.

Faith that the executive, legislative and judicial branches of the government are not being purchased or co-opted to undermine the belief and trust in justice and fairness.

Faith that children will benefit from a government and a world left better by those that came before it and not used as a means to gather illegal wealth.

Corruption destroys this faith. It is a corrosive acid that eats away at the underpinnings of our society. This is far more harmful than the loss of some as yet exactly measurable amount of currency.

This is the true and tragic cost of corruption. To be sure the economic and societal costs of corruption are large, but this loss of faith allows apathy, indifference and an acceptance and tolerance of criminal conduct to creep into the national consciousness of a country plagued by corruption. Once this happens democracy slowly dies because the pact between the government and the people is broken.

The Current Model for the Recovery of Stolen Wealth

What is the current model for the recovery of corruption proceeds? The short answer is that there really is no single accepted or tried and tested model today. Nothing has emerged so far that can be said to be the winning formula for breaking the back of corruption.

While that might seem like bad news – it is not. It means that we are in the midst of a grand worldwide experiment to develop a model that works. Likely, no one model will ever work. The world is a complex and diverse place and to think that one model, one way or one method will work consistently across diverse social, legal, religious and cultural boundaries would be naïve at best.

Currently, the treaty structures that exist speak largely in terms of “state actors” to recover “stolen assets.” These treaties rely heavily on the use of the criminal justice systems of the world and the related mutual legal assistance treaties to assist in cross border law enforcement. The criminal justice system has had the opportunity to fight corruption for a long time on its own and it has yet to

conquer or even slow it meaningfully. What little empirical evidence there is suggests that corruption is on the rise. However, the fact remains that corruption will always be but one, and largely a minor one, of many priorities for national and international law enforcement. Many law enforcement agencies are already overwhelmed with fighting seemingly indiscriminate terrorism, rampant smuggling and drug crimes, massive environmental crimes and many other crimes that are easier to describe, easier to prosecute and seemingly more important to the day-to-day lives of citizens – and where applicable – voters. The crime of corruption – where it is in fact criminalized – is slow acting, hard to categorize, hard to identify and hard to prosecute. A terrorist attack, murder, drug crimes and the like are front page news every day. Those crimes incite fear – some irrational fear – in the populace. So that is where the law enforcement priority is largely placed.

Law enforcement agencies, processes and bureaucracies are good at putting people in jail. They are simply not designed to recover the proceeds of crime and corruption for a host of reasons. While it does happen that the coercive power of the state can be (and sometimes is) used to force the repatriation of stolen wealth, it is largely an afterthought in most criminal prosecutions.

First, criminal processes are generally slow – with good reasons – as we all want the state to have a properly deliberative process when life and liberty are at stake. This is anathema to recovering stolen wealth which moves with dizzying speed through electronic transfers into and out of secrecy havens designed to impede the inquiry into true ownership. Speed is the name of the game in the successful recovery of stolen wealth.

Second, the core disciplines of financial investigation, forensic accounting and asset recovery – if they exist at all in national or state law enforcement units – are grossly underfunded, understaffed and overwhelmed with a crushing caseload. The corrupt actors on the other hand – who have often stolen vast sums of money – have the best lawyers, the best accountants, the best investigators and other resources. Many times indigenous law enforcement is just overmatched in these situations.

Third, often the corrupt actors have consumed and or squandered a large portion of the stolen wealth. This means that the recovery of stolen wealth will largely focus on pursuing claims against culpable third parties, intermediaries, co-conspirators and aiders and abettors. Law enforcement agencies generally have no standing to bring those claims. This is where the real money is to be found in the stolen wealth recovery process.

Fourth, many times a transnational case will depend on the assistance of foreign governments and, in particular, the victimized government. However, if that government lacks the will, the resources, the expertise or the integrity to provide the assistance, then those cases tend to die on the vine. We have to face the fact that many times the very people who benefitted from the corruption are either still in control of the victim government or have left “leave behind” accomplices or co-conspirators in the government who are well placed to impede, stymie or even kill a corruption investigation or request for mutual legal assistance.

Lastly, many times law enforcement sees the asset recovery process as a means of adding to its own coffers or causes a paternalistic impulse to dictate the terms of repatriation. This can and does lead to international disputes as to the

sharing and repatriation of the stolen wealth. The *Abacha* case is a prime example of such a conflict.

I would like to leave no doubt in the mind of anyone reading this paper that the author is a firm believer and supporter of the mission and vast contribution of law enforcement around the world in the fight against corruption. They are the unsung heroes time and again on the front line in an unending fight against corruption. There is no doubt that law enforcement is an important component in the fight against corruption and the recovery of stolen wealth. The reason to point out the challenges law enforcement faces every day in this fight against corruption is not to embarrass, but it is to demonstrate that they are but a piece of the puzzle. There are other complementary pieces that fit together well with law enforcement to level the playing field against well funded, arrogant and elusive corrupt actors.

Corrupt actors, sophisticated fraudsters, their co-conspirators, and those who knowingly assist them move money across borders with ease and in and out of major banking centers and secrecy havens. These funds are themselves converted into myriad forms of wealth, some traditional and others less obvious, all of them valuable. In turn, these same criminals and fraudsters use some of their ill-gotten funds and valuables to bribe and corrupt others, to buy the freedom to act with impunity, and to break down or suffocate the rule of law within a society.

These individuals must be pursued and challenged on multiple fronts. Unquestionably, the threat of criminal prosecution must be made real and the associated criminal penalties must fit the crime. However, that alone is not enough. Where these individuals flee and hide, their ill gotten gains must be

pursued and taken away from them. The same is true for those corrupt actors and kleptocrats who sit in plain sight, but beyond the reach of the law. They must be deprived of the fruits of their illegal activity.

A New Model for Stolen Wealth Recovery

First, the title of this panel is well thought out and I compliment the organizers. Heretofore most of the corruption community refers to this topic – as do the treaties – as stolen “asset” recovery. This label of “asset” recovery is value laden and leads to stultified thinking when it comes to the recovery of stolen wealth. I have long felt that this topic should be defined as stolen “value” or stolen “wealth” recovery.

This is not an academic distinction. Many of the modern treaties and tomes on “asset” recovery assume that there is a traceable asset waiting idly to be identified through tracing principles, then frozen and then repatriated. That is usually the exception not the rule. Most claims have to be brought against those who have layered and laundered their stolen wealth in such a way that tracing is either impossible or a very difficult and time consuming process. So one must not think of “asset” recovery but must instead visualize the process as “value” recovery.

Fortunately, the UN Convention against Corruption (UNCAC) leaves the door open for State Parties to use “measures for direct recovery of property” in Article 53 of the Convention¹⁶ which provides:

¹⁶<http://www.unodc.org/unodc/en/treaties/CAC/index.html>

Each State Party shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

(b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

The most significant development in the asset recovery world over the last few years is a growing awareness among victims that relying on, or at least solely on, governmental capabilities – whether domestic or foreign – is a mistake. Governments have increasingly turned to the private sector to assist in asset tracing and asset recovery for themselves, their instrumentalities and their citizens all of whom have been victimized by corruption and fraud. Governments have recognized that they may not have the expertise or capacity to mount a multi-jurisdictional asset recovery operation. Further, governments have recognized that other governments in the jurisdictions through which the proceeds of corruption may have traveled or where the stolen wealth has been secreted may not always have the political will, infrastructure or expertise to assist them in the recovery of the stolen wealth. Thus, governments have turned to specialized providers of asset tracing and value recovery services.

The use of private multijurisdictional civil actions to recover stolen wealth is an important part of the new model and can level the playing field with the bribe payers. Use of civil actions in foreign jurisdictions to pursue the location and repatriation of identifiable assets or to sue culpable third parties for damages to

replace the stolen value is a great change that is occurring in the “asset recovery” field. This allows direct action without undue reliance on foreign government officials, it largely eliminates costly and time consuming diplomatic processes and it removes the need to commence a criminal case which might be impossible if the Director of Public Prosecutions happens to be in the camp of the kleptocrats or just refuses to act. The principal benefits are the speed with which the claim can be brought and the freedom of the victimized State to control the process instead of being at the mercy of another government and its functionaries.

The use of private civil actions to recover stolen wealth by victimized States is the missing piece of the puzzle that can finally gain traction in the fight against corrupt actors through recovering damages and deterring future corrupt conduct for the reason that any economic gain will be only temporary. Corrupt government officials and those that act in concert with them do it for the money. Take economic gain out of corruption and you take away much of the incentive to commit corrupt acts in the first place.

What is a CART and How Does It Work?

The pursuit of assets through private civil actions works through the use of Civil Action Recovery Teams or “CARTs.” These are multi-disciplinary teams of professionals that work closely with the victimized State to plan and carry out a strategy to trace, trap and repatriate stolen wealth. They are not usually large teams and they are comprised of unique professionals that are experienced in the recovery of stolen wealth such as members of the International Chamber of Commerce’s FraudNet or the Asset Recovery Enforcement Network of the International Centre for Asset Recovery. This is a complicated area of the law and

requires experience and close coordination between civil and criminal actions and cross border evidence gathering.

The premise is that the use of a CART under the direction of the victim government or agency will act as an important component to deter public corruption. Countering these individuals and their associates to trace, recover and ultimately repatriate hidden stolen wealth requires expertise, specialized knowledge, disciplined coordination and legal agility. These capabilities and resources can also be brought to bear in designing and implementing a stolen wealth recovery framework that can take the gain out of the criminal enterprises operated by criminals with impunity. That is where the proposed team of specialized private sector professionals can provide value to the victimized State.

This paper advocates the implementation of a model for the recovery of stolen assets that blends the best aspects of government to government State-level resources, public criminal law rights and private civil remedies that are complementary and calculated to work in unison with the minimum use of client resources while seeking to achieve the client's recovery of the stolen wealth in the shortest time possible. The notion that there is one formulaic approach for the recovery of stolen wealth from corrupt actors must be dispelled. We must develop the awareness that domestic or State-to-State solutions alone are not always likely to be the answer to the multi-jurisdictional problems that have to be solved to recover stolen assets.

The "Team-Based" Approach

The successful recovery of assets misappropriated by corrupt actors and kleptocrats can be a challenging task. It can, however, be made more feasible by the utilization of the right resources. In particular, because frauds today are likely

to be multi-jurisdictional and complex, a sophisticated experienced team of professionals is required to increase the chances of recovery. Fraudsters exploit gaps; to wit: gaps in knowledge, timing, enforcement, informational flow and resources. These gaps can be eliminated in some cases or severely limited in others by employing the right team to recover the proceeds of fraud. Because each case is unique, there is no “one size fits all approach” – rather, each case must be evaluated and a determination must be made as to how best the assets might be recovered. Generally speaking, though, most CARTs will involve the following disciplines:

Team Leader

While most fraud recovery efforts will involve not one but rather several individuals, in the typical case it is imperative that there be a team “leader.” This will usually, but not always, be legal counsel. This person will spearhead the effort among the members of the team and will devise and implement the overall strategy behind the recovery effort.

The team leader will be responsible for numerous things. One of those is to define the overall objectives of the recovery effort, which will be done by working closely with the client and other members of the team. In most cases, of course, the objective will be to recover as much of the misappropriated proceeds of the corruption as possible. However, there are multiple issues to consider as to where to focus one’s efforts. Many times the focus will be on the easiest of the assets to recover to help finance the rest of the effort. In other cases, there is a logical order for pursuing assets depending upon the sequencing of and availability of proof. As one asset is recovered, that effort will likely provide new evidence to pursue the next asset. As well, if stolen wealth has been distributed

in different countries, it may be more efficient to focus the recovery efforts on just one or a few of those countries, rather than all of them at the same time. This and other choices must be decided by the client, with the advice of the team leader. The client and the team leader must define “win” at the outset of the case (which can and usually is refined as the case proceeds), meaning the client must decide what it hopes to accomplish as a result of the recovery efforts. Many times there are multiple potential goals, some of which can even be mutually exclusive, requiring hard choices to be made at the outset or along the way.

The team leader also will do what it takes to be able to reach the stolen wealth wherever it may have been taken – in essence to equip the team to have a “global reach.” This will entail locating and securing the resources in the places where the assets are believed to be located. For instance, if in a particular case, by way of example, it is thought that assets were secreted in Liechtenstein, it is critical to work with a Vaduz-based lawyer as early in the process as possible. Along these lines, the team leader will be responsible for coordinating the various jurisdictions involved, including taking on the role of instructing counsel. In doing all this, the team leader must be vigilant of preventing privileged and confidential information from being misused by any member of the team. And perhaps most important of all, in doing all this it will be necessary for the team leader to take all actions necessary to secure whatever evidence exists of the fraudster’s work, as well as to prevent any more assets from being misappropriated after the fraud is discovered. This could range from fairly straightforward steps, like alerting financial institutions of the fraud, to more complex actions like petitioning tribunals for injunctive relief. In short, while most recovery asset efforts will involve many individuals, in most cases it is important that there be a team

leader, usually legal counsel experienced in international asset recovery, to spearhead and devise the overall effort.

Legal Counsel

The lawyer(s) engaged by a victimized State might properly be seen as the central figure in the investigation and, ultimately in the prosecution of the fraudster and the recovery of assets. Counsel will be responsible for initially analyzing the scope of the fraud and then developing an overall strategy on how best to proceed. Among their responsibilities will be to hire the appropriate individuals, such as forensic accountants and investigators and local counsel, and to ensure that the team is working cohesively and that each member has all of the available tools and information available to the lawyer. And, as is often the case, when dealing with fraud that is multi-jurisdictional, the lawyer will coordinate with all of the jurisdictions involved, usually with the help of local counsel, so that neither the fraudster nor the stolen wealth will be left untouched simply because of their removal to another country. This may be done by utilizing legal processes in those countries, such as injunctions, as may be needed. The lawyer also will work to preserve as much evidence as possible and will be in the best position to preserve privileges and to understand the differences in legal cultures which must be harmonized when dealing with multi-jurisdictional asset recoveries. The key is to engage counsel who knows how to run or work within multi-capability teams and manage various simultaneous actions. The physical location of that counsel is much less important than the experience they bring to the table.

Forensic Accountant

Forensic accounting can be thought of as the integration of accounting, auditing, and investigative skills, and as its name suggests, is a type of accounting

analysis that is suitable for use in a courtroom or tribunal. A forensic accountant is indispensable in most corruption cases, as it might be impossible to trace and recover stolen wealth without an analysis of this type. This is even more true when dealing with complex fraud and grand corruption, as the fraudster tends to be sophisticated and well financed and thus better equipped to hide the proceeds of the fraud.

Typically, a forensic accountant will begin the investigation by examining financial records and meeting with individuals who would have the most knowledge about the fraud (other than the fraudster, of course). From that investigation, the forensic accountant will develop a report that would contain information relating to damages caused as a result of the fraud, a summary of how the fraud occurred and the transactions representing the fraud, and hopefully, a tracing of the money flow. And in the usual case, a forensic accountant (not necessarily the same one used to perform the forensic examination) will testify in person at the trial or at interlocutory proceedings.

Investigator

Investigators also will play a crucial role in the recovery of assets. These resources will primarily be responsible for finding details about the fraud – who was involved, where they are now, how the fraud was done, where the assets were moved to, etc., with the ultimate goal of recovering as much of the stolen wealth as possible and to facilitate bringing the fraudster(s) to justice. The investigator must work closely with the forensic accountant and the lawyers involved in the case to ensure that each member of the team is up to date with respect to the information available. Their most valuable information likely will come from witnesses on the inside of the fraud. In most cases, along with a

forensic accountant and other members of the team, the investigator will focus on gathering valuable documentary information to be used to support a circumstantial case.

This list of team members is not meant to suggest that only these disciplines will be used in every case to recover stolen wealth, but rather is meant to illustrate some of the more typical resources which must be needed in the core team.

Challenges to the Use of Civil Action Recovery Teams

The biggest challenge to the use of a CART is the bias and misperception that the bringing of private civil actions by victimized States is not allowed or that there is some requirement that the criminal or diplomatic channels be used. Nothing could be further from the truth but many still cling to this cumbersome, slow and largely ineffective paradigm. Many seek to recover stolen wealth only through criminal or diplomatic channels because they simply do not know that there is a faster and usually more effective alternative. Without doubt, in certain circumstances, it may be beneficial or even necessary either for practical or political reasons, to bring a criminal case and to seek to use international treaty obligations to assist in the recovery of stolen wealth. However, it is a rare case that would not benefit from the bringing of private claims by the victimized State as well.

Another problem is defining who has standing to bring the private civil claim. The victimized State can bring the claim in almost any jurisdiction assuming it is brought timely. However, what happens if the State does not wish to pursue the action notwithstanding having a good case and the chance to

recover millions of dollars in wealth stolen from its treasury? Many times the same people who stole the wealth or those that are connected to them by political association will refuse to bring the action. What can be done? There is a movement to seek to empower private citizens, civil society organizations or non-governmental organizations to bring these actions on behalf of the victimized State in a manner akin to a corporate derivative action or Whistleblower claim or a Qui Tam or False Claims Act case in the United States. This would empower private citizens or their CSO or NGO proxy to bring claims that should have brought by the victim State but that weren't for whatever reason.

The next hurdle that must be overcome in the use of CARTs is obtaining proper funding for bringing the case. Many times government coffers are already strained providing basic services to its citizens and they have been further weakened by the very corruption that the civil action seeks to rectify. In many cases this is why the victimized State turns to the use of the criminal process as it is perceived as "free." However, you get what you pay for, so sometimes the perception that it is "free" is illusory. In many cases it is in fact not "free" as the assisting government seeks to keep a portion of any recovered value or asset.

The easiest way to fund these cases is to realize that you usually don't have to fund the whole case at the outset. Usually there is some "low hanging fruit" in the form of an asset or account that can be picked off at the very beginning of the case that can then be used to fund a good portion of the rest of the case.

Also, many lawyers and other professionals will undertake these cases, in least in part, on some form of a combined reduced hourly and contingency fee arrangement or with a conditional fee agreement that lowers the upfront outlay by rewarding the professionals at the conclusion if they recover the stolen value.

This allows the victimized State to share the risk in a form of partnership with its CART to keep the pressure on the public treasury to a minimum.

There are also some funds created by governments and NGO's to fund these types of cases that are beginning to emerge. Unfortunately, this avenue is developing slowly. For example, many thought that the UN/World Bank Stolen Asset Recovery Initiative announced in 2007 take up this funding role but it was not to be.

Lastly in this regard, there are now private funders in the form of venture capitalists and hedge funds that are creating lawsuit funding companies, such Echemus in the BVI. These funding entities provide capital to finance the case in exchange for a cut of the recovered proceeds. There are obvious political implications to these arrangements but they are now a viable alternative.

Another challenge to the use of private civil actions by CARTs is the ability to allege and prove damages. What is the proper measure of damages in a corruption case? Is it the amount of the bribe? That seems like a slap on the wrist that many large corrupt bribe payers would be happy to pay as it will be a fraction of their profit. Is it the value of the gross profit made on the corrupt deal? Is it the value of the net profit made on the corrupt deal? Isn't using net profit as a measure of damages akin to giving the bank robber a credit for the cost of the gun and bullets and the ski mask used in the robbery against what they must pay back? Why should a company get to net out its fixed costs or its overhead before paying back what is effectively stolen through corrupt conduct? Or is it some other measure? This area of the law is still being developed. As discussed earlier, the damage to a victimized State goes well beyond "dollars and cents." How does one value the cost to a society of the loss of trust and faith in

its political system, the corrosive effect on its political system or the energy and cost that the government must expend to obtain the return of what was rightfully its to begin with? There is a movement afoot to define a new definition of corruption damages referred to as “Societal Damages.” This is a new concept and it bears study by the international anti-corruption community.

The last great challenge to this model is the cross border collection of evidence. At one time this seemed like an almost insurmountable challenge. However, through the development of many procedural devices such as 28 U.S.C. Section 1782 and Chapter 15 of the U.S. Bankruptcy Code in the US, Anton-Pillar and Banker’s Trust orders in the UK, prueba anticipada and accion exhibitoria procedures in Latin countries and the new Swiss civil procedure code which goes into effect on January 1, 2011, the ability to gather evidence internationally for use against corrupt actors has dramatically increased. Now a well led and staffed CART can gather evidence simultaneously in multiple countries and use it to build a case to make a proprietary claim to stolen wealth. Oftentimes this evidence can be gathered with a “gag and a seal” so that the corrupt actors never even know the CART is closing in on them.

Conclusion

The concept of the recovery of stolen wealth by victimized States from corrupt actors has for sometime been firmly rooted in the criminal process. With the promulgation of the UN Convention against Corruption a growing awareness has developed of the inherent limitations in using the international criminal process as the sole method of recovering stolen wealth by the victimized State. As a result the use of private civil actions by victimized States is on the rise. States face daunting opposition in this regard as many of the bribe payers are financially

very equipped to fight back. By using a Civil Action Recovery Team comprised of lawyers, forensic accountants and investigators (among others) and working in close coordination with the CART the victimized State can dramatically increase the odds of recovering its stolen wealth from the corrupt actors and those that acted in concert with them. While there are challenges to overcome such as outdated perceptions, standing, funding, damages and cross-border evidence gathering, they are manageable. Corrupt actors do not rely on one method to steal patrimony from the State and to hide their ill gotten gains. Therefore, victimized States should not rely solely on one method to obtain the recovery of that stolen wealth. CARTs have recovered stolen wealth from around the world for victimized States and the model has proven to be effective, flexible and cost efficient.

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Edward H. Davis, Jr., a founding shareholder of Astigarraga Davis, focuses his practice on the representation of individual, corporate and institutional victims of fraud throughout the world. In the course of his practice, Davis conducts financial fraud investigations, prosecutes civil claims for fraud and pursues misappropriated assets. Today's nature of money flow allows for stolen funds to be instantaneously transferred; Davis has pursued such funds in jurisdictions across the globe including Japan, the Bahamas, Latin America, Switzerland and Liechtenstein.

Included by his peers in *The Best Lawyers in America*, and rated AV[®] Preeminent[™] by Martindale-Hubbell[®], Davis is a Certified Fraud Examiner, the Vice Chair for the Caribbean and Central America of the International Bar Association Anti-Corruption Committee, a member of the Advisory Board of the International Association for Asset Recovery, a member of the ABA Section of International Law Anti-Corruption Committee, a member of the ABA Anti-Corruption Committee, a member of the Association of Certified Anti-Money Laundering Specialists, a member and frequent lecturer before the International Financial Crimes Investigators Association, and under his leadership, Astigarraga Davis is also a leading member of the ICC Commercial Crimes Services FraudNet Network.

Davis often lectures on the subject of financial fraud and corruption to groups ranging from the global fraud investigation units for asset recovery of one of the world's largest banks, to associations of certified public accountants, to investigative agencies. Additionally, Davis often counsels clients in fraud response crises. He is lead counsel in the Piarco Airport civil claims for the Republic of Trinidad and Tobago, lead civil counsel for the Government of Antigua & Barbuda in the civil case relating to the alleged fraud in the payment of debt resulting from the building of the Crabbs Desalination facility and he represents numerous victim depositors against Stanford International Bank and those connected with it. Davis also filed the first Chapter 15 bankruptcy petition in Florida on behalf of the Bancafe International, Barbados.

Recognized as a Top Lawyer by the *South Florida Legal Guide*, Davis' knowledge in financial transactions originates from over 22 years of representing banks and other financial institutions in creditors' rights and other litigation, including disputes over wire transfers, letter of credit, forged checks and other issues. In representing lenders he has prosecuted claims against borrowers and third parties for fraudulent transfers, check fraud, mortgage fraud, letter of credit fraud, wire transfer fraud, commercial loan enforcement, enforcement of judgments, including foreign judgments, and foreclosure of mortgages and other security.

Admitted to practice in Florida and before the U.S. District Courts for the Southern and Middle Districts of Florida and the Eleventh Circuit Court of Appeals, Davis is the Immediate Past Chair of the International Law Section for which he has served as the Chair, Chair-Elect, Secretary and Treasurer as well as serving on the Executive Council. He is also a founding chair of its International Litigation and Arbitration Committee as well as a member of the Inter-American Law and Anti-Corruption Committees of the American Bar Association International Law Section; Anti-Corruption and Business Crime Committees of the International Bar Association; the Bankruptcy Bar of the Southern District of Florida; the American Bankruptcy Institute, the International Association for Asset Recovery, and the Florida International Bankers Association.

SEMINARS AND PRESENTATIONS

- “Global Update on Anti-Corruption Enforcement: Caribbean, Central America, and South America Report,” Speaker, International Bar Association 2010 Annual Conference, Vancouver, Canada, October 3-8, 2010.
- “International Asset Recovery,” Speaker, FTC Bureau of Consumer Protection Litigation Seminar, Washington, D.C., September 22, 2010.
- “Regional Developments in Anti-corruption Enforcement: Caribbean and Central American Report,” Speaker, International Bar Association 8th Annual Anti-Corruption Conference, Prague, Czech Republic, September 21, 2010.
- “Chapter and Verse on Chapter 15,” Speaker, OECS Bar Association 7th Regional Law Fair, St. Kitts, September 10-12, 2010.
- “Leveling the Playing field: The Use of Civil Litigation to Locate and Recover Assets Misappropriated Through Corruption,” Speaker, Basel Institute on Governance, Laxenburg, Austria, September 1-3, 2010.
- “Cross Border Insolvencies,” Speaker, 8th International Business Recovery Forum, Sao Paulo, Brazil, June 10, 2010.
- “Sentencing in Corruption Cases, Restitution, Recourse for Victims,” Panelist, Corruption and the Rule of Law, AAM and UIA Seminar, Macao, Peoples Republic of China, S.A.R., May 14-15, 2010
- “ ‘Stings,’ ‘Black Forest Runs,’ Pre-texting, Surveillance, & the Market for Private Data: Helpful or Harmful?,” Panelist, 8th Annual Offshore Alert Financial Due Diligence Conference, Miami, Florida, May 2-4, 2010.
- “Insolvencies and Receiverships Gone Wrong: Fee Pigs and ‘The Dripping Roast,’” Panelist, 8th Annual Offshore Alert Financial Due Diligence Conference, Miami, Florida, May 2-4, 2010.
- “Fraud Victim Class Actions: Are they Possible and Under What Circumstances?,” Panelist, 8th Annual Offshore Alert Financial Due Diligence Conference, Miami, Florida, May 2-4, 2010.
- “Unleashing the Equitable Powers of Court to Find and Recover Hidden Assets,” Moderator, The 2010 International Asset Recovery Conference, Miami Beach, Florida, April 14-16, 2010.
- “Think Offshore Secrecy Havens are Impenetrable and Beyond Asset Recovery Reach?” It Ain’t Necessarily So”,” Panelist, The 2010 International Asset Recovery Conference, Miami Beach, Florida, April 14-16, 2010.

- “Maneuvering Cases and Moving Smartly Through Civil Law and Common Law Countries,” Panelist, The 2010 International Asset Recovery Conference, Miami Beach, Florida, April 14-16, 2010.
- “Mis-Use of Corporate Vehicles (CVs) in Grand Corruption Cases,” Co-Chair/Panelist, World Bank Break-Out Session, Mauritius, April 10, 2010.
- “A Report on the Stanford International Bank Liquidation,” Speaker and Moderator, ICC Fraudnet Conference, Mauritius, April 8, 2010.
- “Challenges in Managing the International Case from the Judicial Perspective,” Panelist, 8th Annual International Litigation and Arbitration Conference, Miami, Florida, February 12, 2010.
- “Proceeds of Crime & Asset Recovery,” 2009 Malta International Financial Crime Forum, Malta, November 13, 2009.
- “The Foreign Cooperation Paradigm” and “Re-conceptualizing Recoverable Assets,” 2009 Annual Conference of the International Association for Asset Recovery, Las Vegas, Nevada, November 9, 2009.
- “A New Asset Recovery Paradigm – Taking the Gain Out of Corruption and Fraud Using a Public-Private Partnership,” Speaker, ABA Section of International Law, 2009 Fall Meeting, Miami Beach, Florida, October 29, 2009.
- “Global Update on Anti-Corruption Enforcement,” (Speaker, Vice Chair – Caribbean & Central America), International Bar Association 2009 Conference, Madrid, Spain, October 5, 2009.
- “Asset Tracing & Recovery Internationally, The Case of Mr. C” (Panelist), ICC FraudNet Fall Conference, Munich, Germany, October 2, 2009.
- “The Magic of 28 U.S. C. §1782: How to Obtain Discovery in the U.S. for Use in Your Domestic Proceeding,” (Speaker), OECS Bar Association 6th Regional Law Fair, Commonwealth of Dominica, W.I., Sept. 11, 2009.
- “Developments In The Tracking, Freezing And Repatriation Of Looted Assets,” (Panelist), 7th Annual Anti-Corruption Conference International Bar Association, Prague, Czech Republic, April 29 – May 1, 2009.
- “Legally Profiting from Financial Crime: How Governments Can Profit from Assisting in the Recovery of the Proceeds of Corruption and Financial Fraud,” (Panelist and Moderator), 7th Annual Offshore Alert Conference, Miami, April 28, 2009
- “Ponzi Schemes: How to Detect Them & Steps to Take if You Are a Victim,” 7th Annual Offshore Alert Conference, Miami, Florida, April 28, 2009.
- “Fraud Investigation and the Recovery of Assets,” (Panelist), INSOL Hemispheric Conference, Rio de Janeiro, Brazil, April 2, 2009.
- “Hot Topics in International Law: Three Recent Cases Every International Lawyer Should Understand,” (Panelist), International Litigation and Arbitration Conference, Florida Bar International Law Section, Coral Gables, Florida, March 14, 2009.

- “Insurance Fraud/Asset Tracing and Subrogation,” (Panelist), International Bar Association Annual Conference 2008, Buenos Aires, Argentina, October 16, 2008.
- “Recovery of Looted Assets,” (Moderator and Panelist), International Bar Association Annual Conference 2008, Buenos Aires, Argentina, October 15, 2008.
- “Global Update on Anti-Corruption Enforcement,” (Panelist) International Bar Association Annual Conference 2008, Buenos Aires, Argentina, October 14, 2008.
- “Tracing Misappropriated Assets: A U.S. Perspective,” (Speaker, 6th Annual International A.B.I. Corporate Recovery Forum, São Paulo, Brazil, October 10, 2008.
- “Tracing Misappropriated Assets: A U.S. Perspective,” (Speaker), 13th Annual C-5 Fraud Conference, London, England, September 30, 2008.
- “Provisional and Pre-Judgment Remedies available in the United States,” (Speaker), Organization of Eastern Caribbean States’ 5th Regional Law Fair, St. Lucia, September 11-13, 2008.
- “What is a Recoverable Asset? An Examination of Overlooked “Assets” Available for Recovery and How to Reach Them,” (Speaker), International Bar Association 6th Annual Anti-Corruption Conference, Paris, France, April 21-25, 2008.
- “Trinidad & Tobago: The Piarco Airport Corruption Fraud,” (Speaker), 6th Offshore Alert Financial Due Diligence Conference, Miami Beach, Florida, April 15, 2008.
- “Asset Recovery Under the United Nations Convention Against Corruption: Raising the Stakes Globally,” (Panelist), Transparency International-USA and the Anti-Corruption and Anti-Money Laundering Committees of the American Bar Association, Washington, DC, March 13, 2008.
- “Antigua and Barbuda (IHI) Case Study” and “Trinidad & Tobago Piarco Airport Case Study,” (Speaker), ICC FraudNet Spring Conference: Asset Recovery By Private Sector Counsel As A Component Of The Fight Against Public Corruption And Transnational Fraud, Washington, DC., March 11, 2008.
- “Recovery of the Proceeds of Fraud: A Team Based Approach and Tools of the Trade,” (Speaker), Lawrence Graham Insolvency Conference, London, England, November 19, 2007.
- “Legal Update on Aspects of Investigations,” (Speaker), International Association of Financial Crimes Investigators Training Seminar, Altamonte Springs, Florida, October 5, 2007.
- “Corporate/Financial Frauds, Tracing, Freezing and Recovery of the Estate’s Assets – the Brazilian and International Perspective,” (Speaker), American Bankruptcy Institute: 5th Annual International Corporate Recovery Forum, São Paulo, Brazil, September 24-25, 2007.
- “Litigation American Style: The Down and Dirty on U.S. Discovery, Punitive and Exemplary Damages, Contingency Fees, Jury Trials and Other Fun Stuff,” (Speaker), Organization of Eastern Caribbean States 4th Regional Law Fair, Grenada, September 20, 2007.
- “Liability & Jurisdiction: Who is Liable When Fraud is Committed & How Do Courts Determine Jurisdiction?” (Panelist), 5th Offshore Alert Financial Due Diligence Conference, Miami, Florida, April 24-25, 2007.

- “Recovering Proceeds of Crime for Victims,” (Moderator and Panelist), 5th Offshore Alert Financial Due Diligence Conference, Miami, Florida, April 24-25, 2007.
- “Practical Aspects of the Recovery of the Proceeds of Grand Corruption Against the State,” (Speaker), FraudNet Conference, Rio de Janeiro, Brazil, April 13, 2007.
- “The Asset Recovery Paradigm – Taking the Gain Out of Public Corruption,” (Moderator and Panelist), Transparency International 12th International Anti-Corruption Conference, Guatemala City, Guatemala. November 15 – 18, 2006.
- “Special Focus: Issues Faced by Small and Medium Enterprises in FCPA Investigations,” (Panelist), ABA National Institute on the Foreign Corrupt Practices Act, Washington, D.C., October 17, 2006.
- “Tracing of Illicit Funds,” (Speaker), Organization of Eastern Caribbean States 3rd Regional Law Fair, Paradise Cove, Anguilla, September 15, 2006.
- “Recognizing and Combating Check Fraud,” (Speaker), International Association of Financial Crimes Investigators Annual Conference, Seattle, Washington, August 26, 2006.
- “The Myth of Secrecy: How to Obtain Information in Offshore Financial Centers,” (Moderator and Panelist), Offshore Alert, 4th Annual Due Diligence Conference, Miami Beach, Florida, November 14-15, 2005.
- “Summary Report on the State of Public Corruption in the Western Hemisphere,” (Speaker), Organization of Eastern Caribbean States Bar Association 2nd Regional Law Fair, Tortola, B.V.I., September 16, 2005.
- “An Overview of the State of the Piarco International Airport Public Corruption Case in Trinidad & Tobago,” (Speaker), Organization of Eastern Caribbean States Bar Association 2nd Regional Law Fair, Tortola, B.V.I., September 16, 2005.
- “Recognizing and Combating Check Fraud,” (Speaker), International Association of Financial Crimes Investigators Statewide Training Seminar, Orlando, Florida, August 29, 2005
- “Forfeiting the Proceeds of Corruption,” U.S. Dept. of Justice/Organization of American States Anti-Corruption and Cooperation Conference, Miami, May, 2005.
- “Recent Developments in Public Corruption In Latin America And The Caribbean,” (Panelist), The Awakening Giant of Anti-Corruption Enforcement, International Bar Association, Paris, France, May 4-6, 2005.
- “Recovery of the Proceeds of Criminal Activity,” (Panelist), International Bar Association Litigation Conference, Miami Beach, Florida, April 29, 2005.
- “Strategies to Neutralize Attacks on Asset Freezes in the US,” (Speaker), FraudNet Spring Conference, Madrid, Spain, February 25, 2005.
- “Challenges Involved in Public Corruption Cases, including Forensic, Investigative, and Legal,” (Moderator and Panelist), Conference of the United Kingdom Overseas Territories Attorneys General, Anguilla, February 16, 2005.

- “PEP's and Foreign Public Corruption,” (Moderator), FIBA/CSBS Anti Money Laundering & USA Patriot Act Compliance Conference, Miami, Florida, February 10, 2005.
- "A Primer on International Commercial Arbitration," (Speaker), Regional Meeting – International Litigation and Arbitration Committee of the Florida Bar International Law Section, Stetson College of Law, Gulfport, Florida, November 17, 2004.
- “Accessory Civil Liability,” (Speaker), Offshore Alert’s 3rd Annual Due Diligence & Asset Recovery Symposium, Coral Gables, Florida, October 15, 2004.
- “Case Study of a Bank Fraud Investigation,” (Moderator and Panelist), American Institute of Certified Public Accountants (AICPA) Conference on Fraud and Litigation Services, Phoenix, Arizona, September 27, 2004.
- “Combating Bank Fraud,” (Speaker), 2004 Financial Institution and Law Enforcement Seminar, The Palm Beach Economic Crime Unit (PBECU), Boca Raton, Florida, September 22, 2004.
- “How to Properly Prepare and Present Your Fraud Case for Prosecution,” (Speaker), Financial Institutions Security Association (FISA), Ft. Lauderdale, September 15, 2004 and Miami Lakes, Florida, September 16, 2004.
- “The EFT Fraud Epidemic: A Diagnosis and Proposed Cure,” (Speaker), Florida International Bankers Association (FIBA) Conference, June, 2004.
- "Recognizing and Combating Check Fraud," (Speaker), International Association of Financial Crimes Investigators (IAFCI), Florida Chapter, Annual Training Seminar, Cocoa Beach, Florida, May14, 2004.
- “Legal Update: Aspects of Investigations,” (Speaker), Citigroup Investigative Services National Training Conference, Las Vegas, Nevada, June 25, 2003.

PUBLICATIONS

- *The Tracing of Illicit Funds* (co-author), and *Country-Specific Possibilities for Asset Tracing & Recovery: United States of America* (contributor), in: ASSET TRACING & RECOVERY: THE FRAUDNET WORLD COMPENDIUM (Bernd H. Klose ed., 2009).
- *A Practitioner's Guide to Enforcement of Foreign Country Money Judgments in the United States*, (co-author), in AMERICAN BAR ASSOCIATION INTERNATIONAL PRACTITIONER'S DESKBOOK SERIES: INTERNATIONAL LITIGATION STRATEGIES AND PRACTICE (Barton Legum ed., 2005).
- *National Juice Products Association v. United States: A Substantial Transformation of the Country-of-Origin Substantial Transformation Test?*, 19 U. MIAMI INTER-AM. L. REV. 493 (Winter 1987-88).