



Managing Asset Recovery Cases

Presented by
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Stand up Questions

Stand up if **YES**



Do nothing if **NO**



Does your office /unit focus on asset recovery?

Stand up if **YES**



Do nothing if **NO**



Have you worked on an asset recovery case?

Stand up if **YES**



Do nothing if **NO**



Discuss with your partner:

What tools for asset recovery do you know of?





What this Module aims to teach:

How to best manage and supervise an investigation including asset recovery

A discussion of legal tools in the recovery process

An brief overview of International Asset Recovery Initiatives and Best Practice Suggestions

10-minute Discussion Assignment:

What can be barriers to asset recovery?

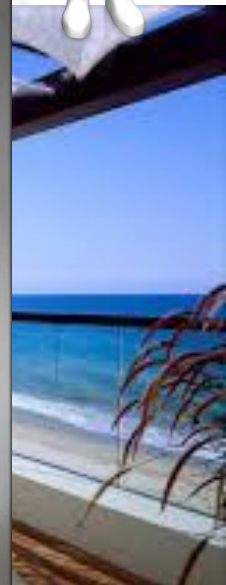
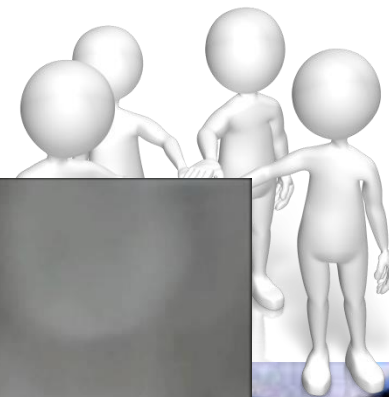


15-minute Discussion Assignment:

What can be Key Points
on best management practices
for an investigation including
asset recovery?

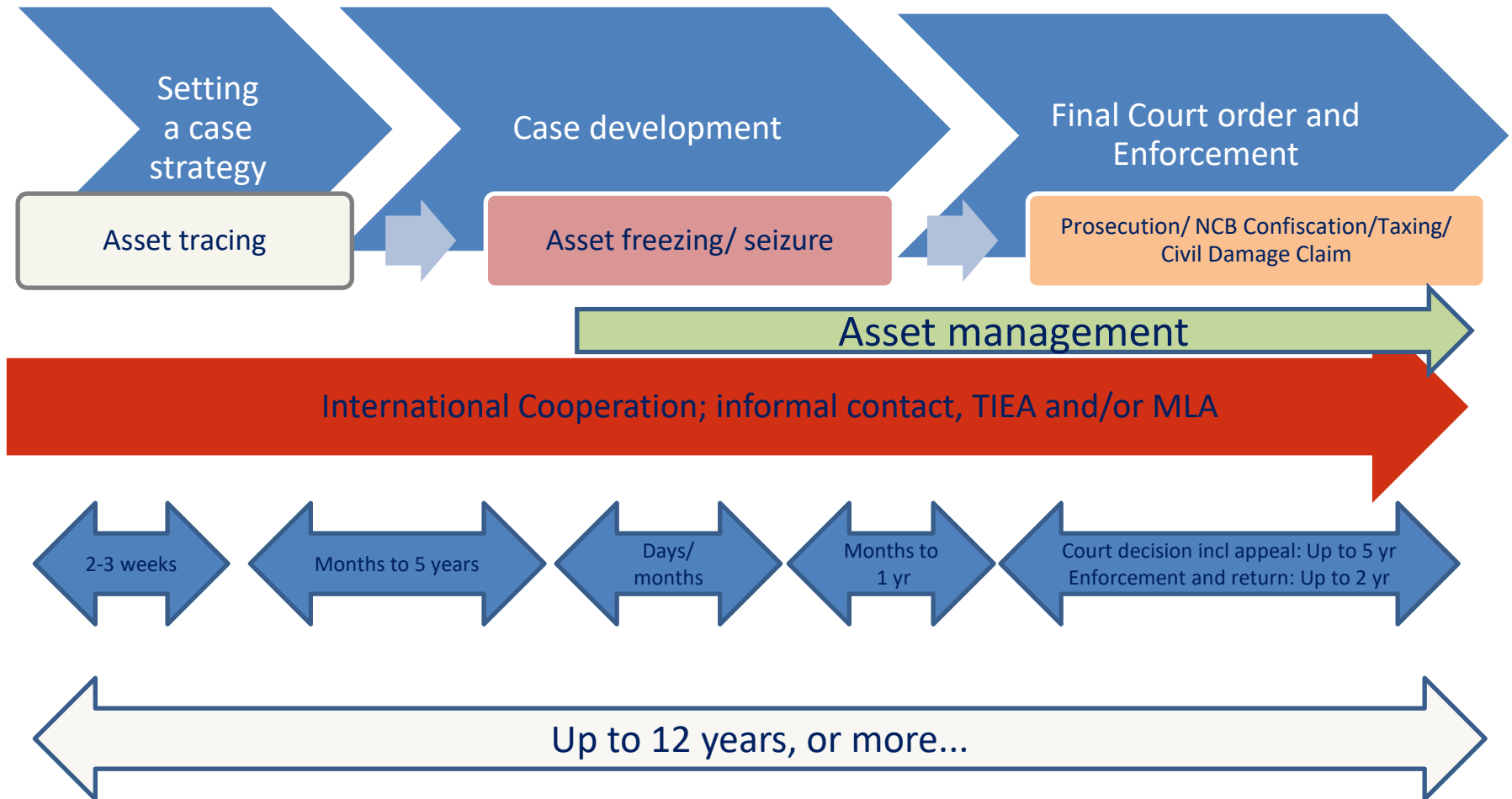


A sad story...





The stages of an Investigation including Asset Recovery





Planning stage: Setting a case strategy

Stage 1

- Collecting intelligence, evidence
- For both of the case and for tracing assets

Stage 2

- Securing assets
- Seizing and/ or
- Freezing order through court

Stage 3

- Court Process and
- Enforcing Final Court Order (civil or criminal)

Stage 4 Sale of assets/Asset repatriation



Setting a case strategy

- What should be the goal of your case?
 - Prove a criminal/civil (tax) case
 - Remove all possible assets from the criminal/his network



Setting a case strategy

- Assemble the right team
 - Team Leader and members need to see the value of asset investigation
- Ensure all legal issues and liable parties will be identified and included
 - Adjust the strategy throughout the investigation according to case development
- Need for inter-agency or international cooperation?
 - Establish contact and enter into agreements as soon as possible



Setting a case strategy

- Team Leader: Know which tools are available for asset recovery
 - Both for you and for other agencies
 - Investigative
 - Legal
 - Possible means for International cooperation/ information from abroad
 - Make wise decisions
 - Know that timing is everything!



Collecting Intelligence and Evidence

Team should **include asset tracing experts**

- Prove what the suspect owns
- Follow the paper trail
- Investigate beneficial ownership
- Know how to obtain information from your FIU and from abroad through informal channels



Collecting Intelligence and Evidence -

- Asset tracers must have access to **neccessary technical resources**
 - Access to relevant registries
 - Neccessary computer software, ie. Analyst Notebook
 - Other data resources
- Create a thorough financial profile for each suspect



Practical exercise:

Part 1

- As a supervisor/manager, what goal would you set for the investigation? Identify challenges in the planning stage, and how you would deal with them
- What investigative tools would you use for asset recovery at this first stage of the investigation?
- Identify challenges in collecting intelligence/evidence and how you would deal with them. What would be the consequence if you do not make any plans regarding securing the assets, at this stage?

Securing Assets





Securing Assets

- Team Leader must **take timely action**
 - What are the options within your legal framework?
 - Which assets to seize...
 - Cost – benefit analysis
 - Make time for court proceedings for Freezing /Restraining Order
 - Obtain legal representation, if not on the team
 - Team members may need to give evidence



Securing Assets

- Team Leader must **know when to initiate cooperation with other agencies** to make use of their tools
 - Easier/quicker for Police to seize than for Tax Office to get restraining order?
 - Make a request to police
 - Police not equipped to handle asset management?
 - Make a request to another agency
 - Assets abroad?
 - Criminal case: Use Mutual Legal Assistance (MLA) to secure assets in foreign jurisdiction, or
 - Civil case: Use Tax Collection Agreement



Securing Assets

- Assets seized:
 - Team leader must take into account **need for asset management** until trial is done
 - Different needs depending on the asset:
 - Jewellery
 - Motor Vehicles
 - Boats
 - Horses/live stock
 - Real Estate etc...
 - Must maintain detailed record over the assets!

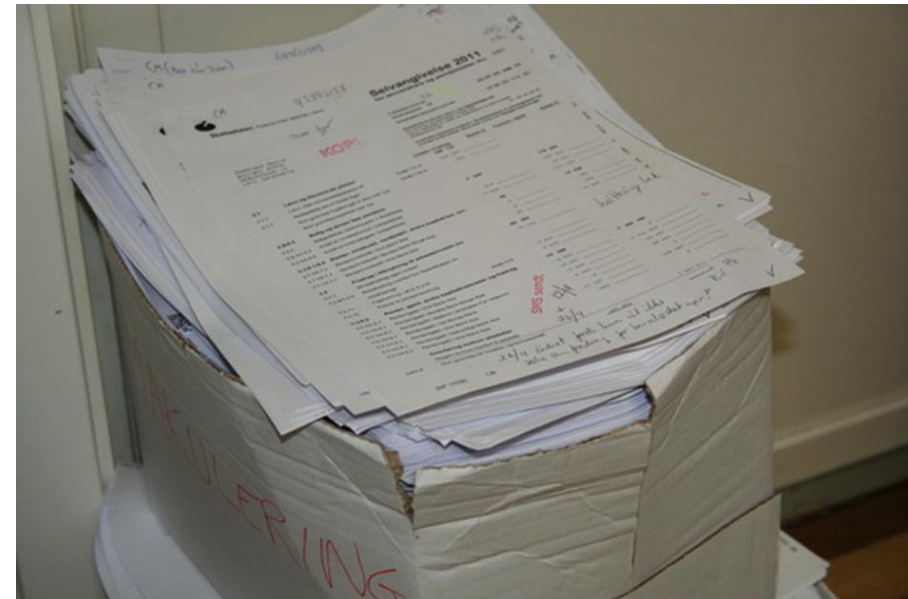




Step 2 – Securing Assets - Case example

Norwegian Tax Return
Preparer Fraudster

Preventing assets from
being hidden or
dissipated is crucial



Hun er siktet for momsunndragelser, skatteunndragelser og medvirkning til grovt skattesvik.



PROVISJON

Kvinnen skal ha mottatt minst 8 millioner kroner i provisjon fra sine klienter.

Norsk-vietnamesisk kvinne (36)

POLITI POLITIAKSJON

Politiet slo til mot fire adresser, to i Oslo, to på Lorenskog.



MEDHJELPERE

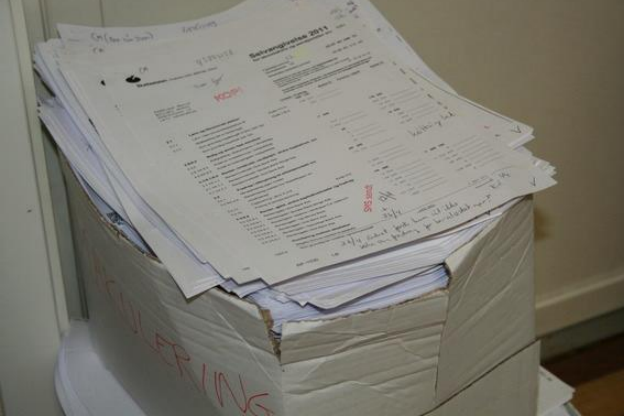
Hun har hatt én til fem medhjelpere i skattesvindelen gjennom sitt enkeltmannsforetak.



2000 PERSONER

har benyttet seg av kvinnens tjenester. Disse har fått ført fiktive fradrag på sine selvangivelser for anslagsvis

250 millioner kroner.

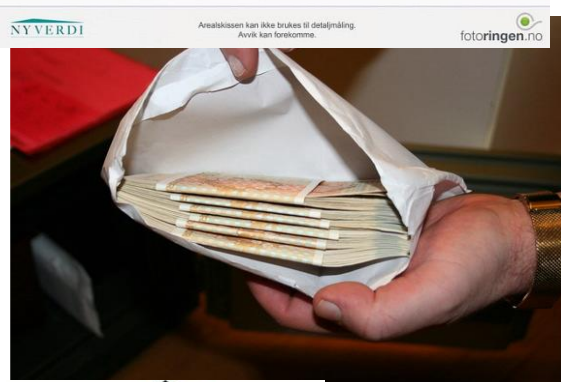


Case - Search & Seizure

- Four boxes of manipulated tax returns
- Receipts for cash payment of 160.000 Euro
- NOK 200 000 (20.000 Euro) in cash
- Files of clients and of payments made



- Many computers – Need for forensic
- E-mail correspondence
- Calendar with appointments
- Money transfers abroad



Case - Seizure - Assets

- Tax office obtained court order for freezing values for 50.000 Euro
 - Real estate
 - One house
 - Two flats
 - Cash found on the premises
 - Bank accounts
 - Stocks and shares



Case – Further Investigations

- Info on new bank account: Payment on a yacht
- The claims against the subject increased, based on new evidence
 - VAT increase by 150.00 Euro
 - Personal tax 120.000 Euro
 - Accessory to tax fraud for her 2000 clients from 4 mill – 7 mill Euro
 - Team decided to freeze the yacht, and «fill up» the other assets, to secure the increased claims



Case – End result

- Tax and VAT decisions of 540.000 Euro
 - Tax office sold all her assets to cover the debts
- Guilty as charged in the criminal case
 - Her own tax and VAT fraud, accomplice to 2000 clients' tax fraud
 - 6 years imprisonment
 - Confiscation verdict 250.000 Euro, and 14 computers

Legal tools to get the final
rights to the assets





Court Process

Different legal tools:

1. Criminal Prosecution and Confiscation
2. Non-Conviction Based Confiscation
3. Taxing and VAT-assessing illegal income/turnover
4. Civil Claims: Liability in negligence
5. Use of Bankruptcy
6. Receiving an MLA Request from another jurisdiction to conduct confiscation/civil action in your country

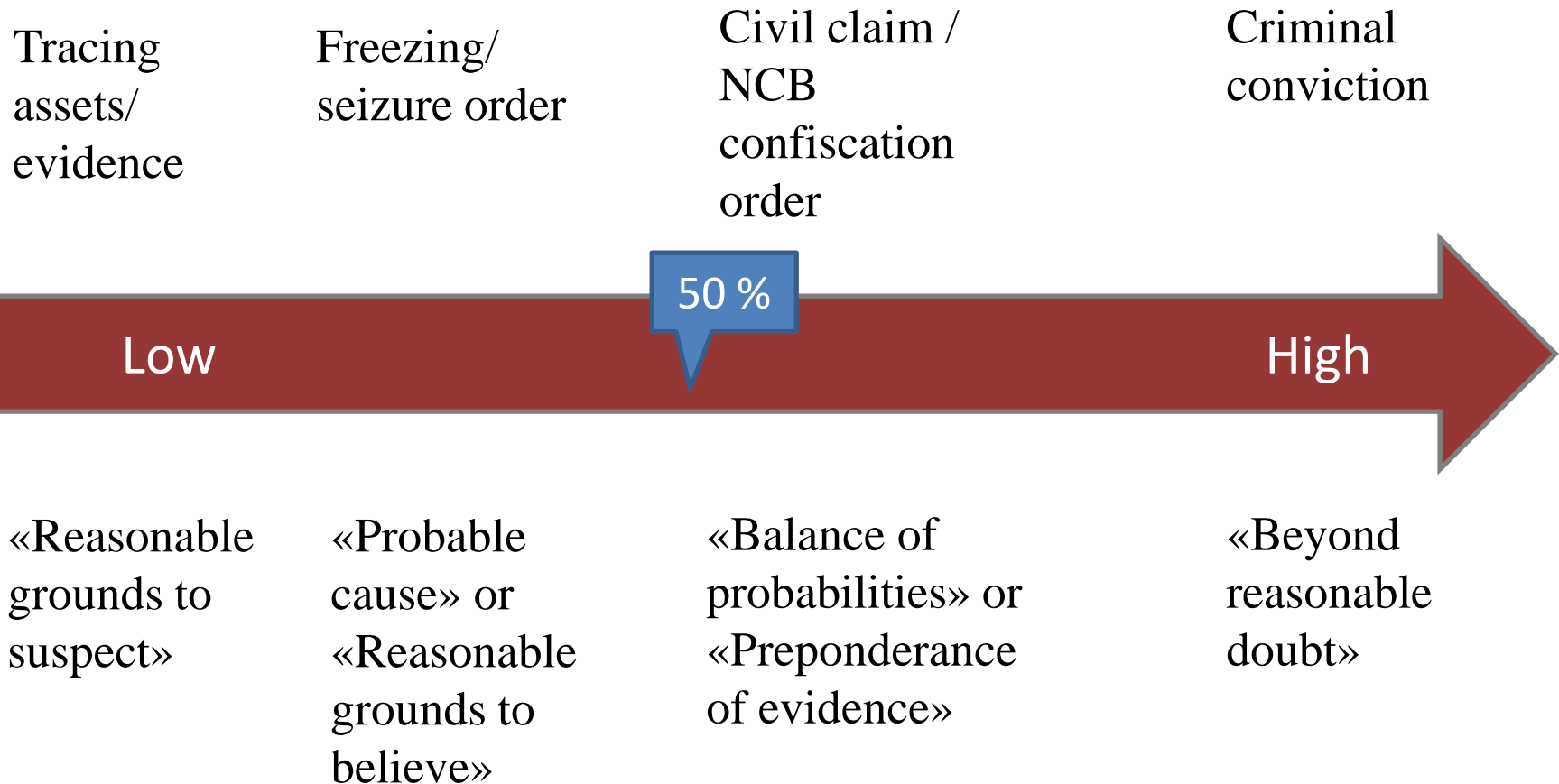
Group Assignment:

Please discuss the advantages and disadvantages of the different tools up against each other





Standards of proof





Court Process

Civil Claim

A government that has suffered a loss can bring action in civil court

- Tax fraud/ VAT fraud/ Social Security fraud
- Bribes paid to government officials are legitimately owned by the victim state

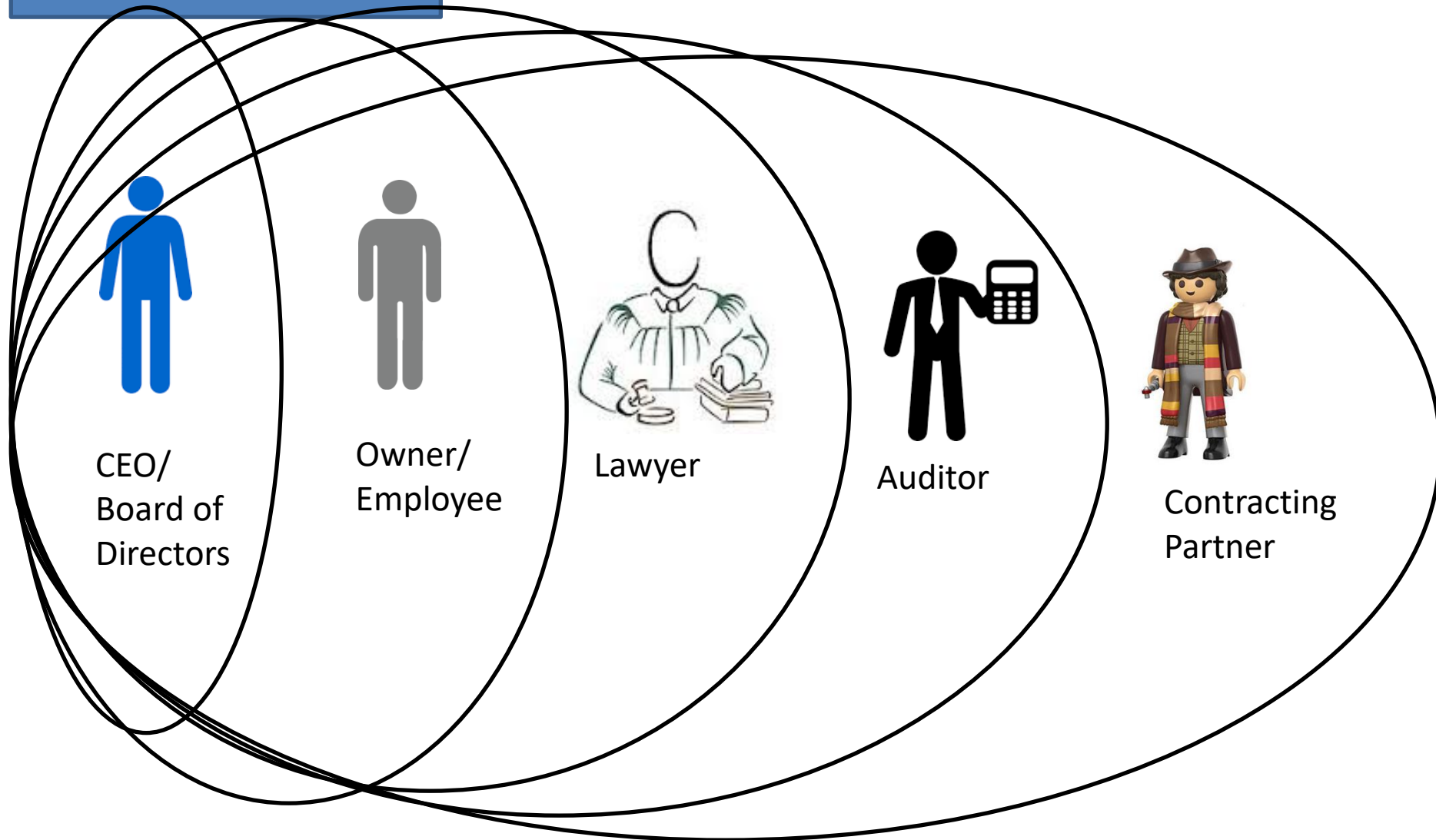
Legal basis:

- Liability in negligence
- Ownership claims
- Unjust enrichment

Also: a Bankruptcy Estate can sue for damages

LTD

Civil Claim cont.
– Who can be targeted?



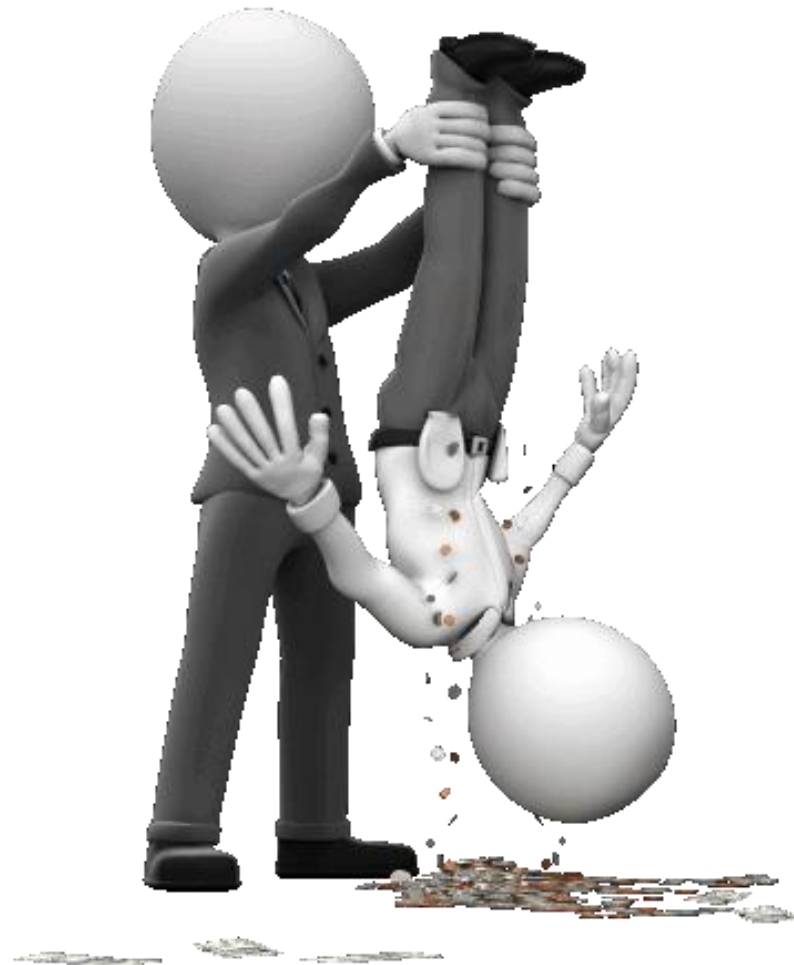
Practical exercise:

Part 2



- Identify challenges regarding securing assets after the Lemon LTD goes bankrupt and how you would deal with them.
- Which legal tools would you use for asset recovery at this stage, and which assets would you choose?
- Your team is on a search and seizure in [John and Doreen's home](#): What should your team seize or freeze in the apartment, and why?
- What would be the consequence if you did not take any action regarding the assets, at this stage?

Enforcement and Return of assets





Enforcement and Return of assets

- Relevant regardless of which legal tool has been used!
- Selling assets that have been seized/frozen
 - Needs to be professional
 - Get highest possible price
- Dividing the outcome between creditors
 - Agencies each get a share?



Enforcement and Return of assets

- Assets abroad?
- Send an MLA request to the jurisdiction
 - Direct enforcement: Your court order is directly registered and enforced through local court
 - Indirect enforcement: Foreign jurisdiction requires an order by their own court to be enforced
- Dividing the outcome between the jurisdictions?



Case example

Norwegian Tax Authorities collected intel on foreign credit cards being used in Norway for cash withdrawal

- Two cards stood out, issued by Bangkok Bank of Thailand
 - Card A used **481 times** during two years, withdrawal of 600.00 Euro
 - Card B used **431 times** during two years, withdrawal of 550.00 Euro
- Police obtained photos from cashpoint and petrol station: Identified individuals





Case example

The two individuals operated Hong Kong and Gibraltar based companies supplying entertainment for mobile phones in Norway

All payments from Norway went directly to accounts in Hong Kong

From Hong Kong, the money was sent to accounts in Thailand, in the name of straw persons





Case example

Investigation revealed purchase of valuable assets!
Problem: Most of them in Thailand.....



Mercury - Mercury Racing 700 Sci

£ 44,084

Type:	Inboard Petrol
Manufacturer:	Mercury
Model:	Mercury Racing 700 Sci
Year Built:	2011
Power (Hp) :	690
Cylinder Capacity:	8200
General Equipment:	Freshwater cooling
Location:	Bremerhaven, DE





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£ 44,084

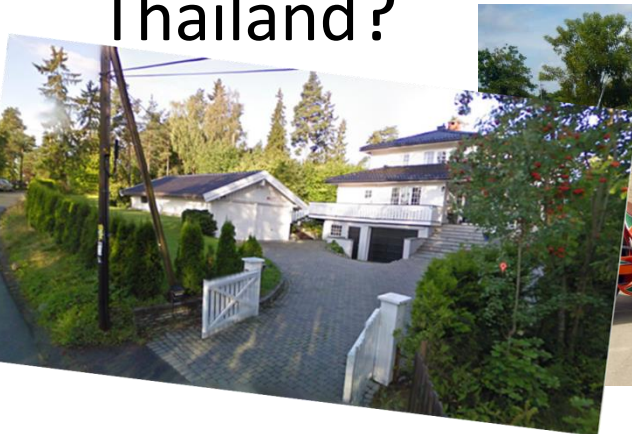
Norway has no Tax Collection Agreement with Thailand....

Tax bill for A: 4,5 mill NOK

His house & car frozen by court order

- Tax Office got 2,1 mill NOK from the sale

Police use their legal tools (MLAT) for forfeiture in Thailand?





Case example

- Court verdict in the criminal case:
 - Person A: Prison 3 years + 10 months, Forfeiture 4 mill NOK
 - Person B: Prison 4 years + 6 months, Forfeiture 9 mill NOK
- Possible civil case – Sue for damages
 - A & B responsible for the tax loss in the Hong Kong based company



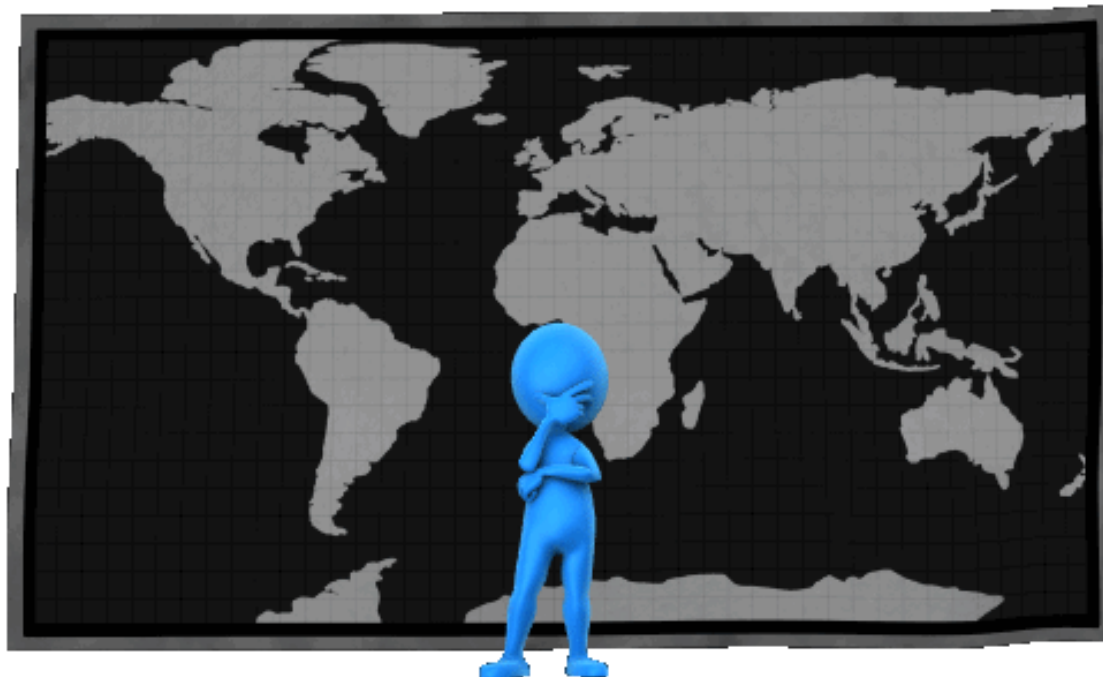
Asset Recovery: International Cooperation





*I wonder – is there any evidence
abroad....?*

*AND could there be ASSETS there
too?*



Do you have any experience finding assets abroad?

Stand up if **YES**



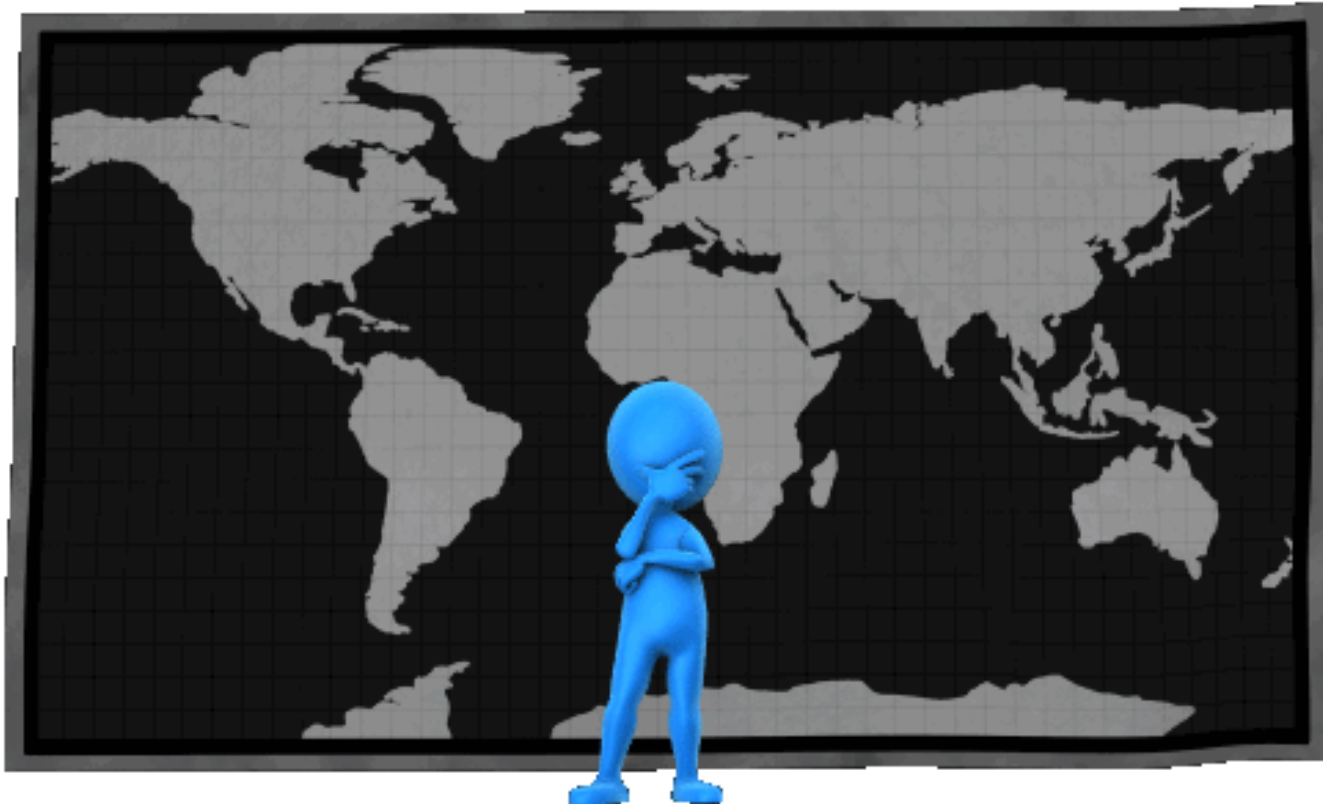
Sit down if **NO**



Discuss on your row:
What can be the critical points for international cooperation?



International best Practice Recommendations





International cooperation

- **First resort:**
 - Police to police
 - Prosecutor to prosecutor
 - FIU to FIU
- **Formal: Mutual Legal Assistance (MLA)**
 - Rogatory letters
 - Need a legal basis



First resort: Informal assistance	Vs.	Formal Mutual Legal Assistance
Obtaining Intelligence and information to assist investigation	<i>Purpose</i>	Obtain Evidence for uses in trial and confiscation
Non-coercive investigative measures	<i>Type of assistance</i>	Coercive measures and other judicial assistance
Direct contact	<i>Process</i>	Generally not direct
No specific requirements: Usually agency – agency contact		May require dual criminality, reciprocity
Information obtained quickly	<i>Advantages</i>	Evidence is admissable in court, enforcement of orders
Information can not always be used as evidence	<i>Limitations</i>	Time-consuming, resource intensive



Camden Asset Recovery Interagency Network - CARIN

- Informal network of law enforcement experts-practitioners in the field of asset tracing, freezing and confiscation.
- Each member state is represented by a law enforcement officer and a judicial expert
- 53 registered member/ observer jurisdictions, including 27 EU Member States and nine international organisations



Camden Asset Recovery Interagency Network - CARIN

- Gives assistance in criminal cases to law enforcement officers, judge/magistrate, officials from Asset Recovery Offices
- “National contact points” may be contacted directly by phone or email
- CARIN can assist you during any stage of the asset recovery process!

carin@europol.europa.eu



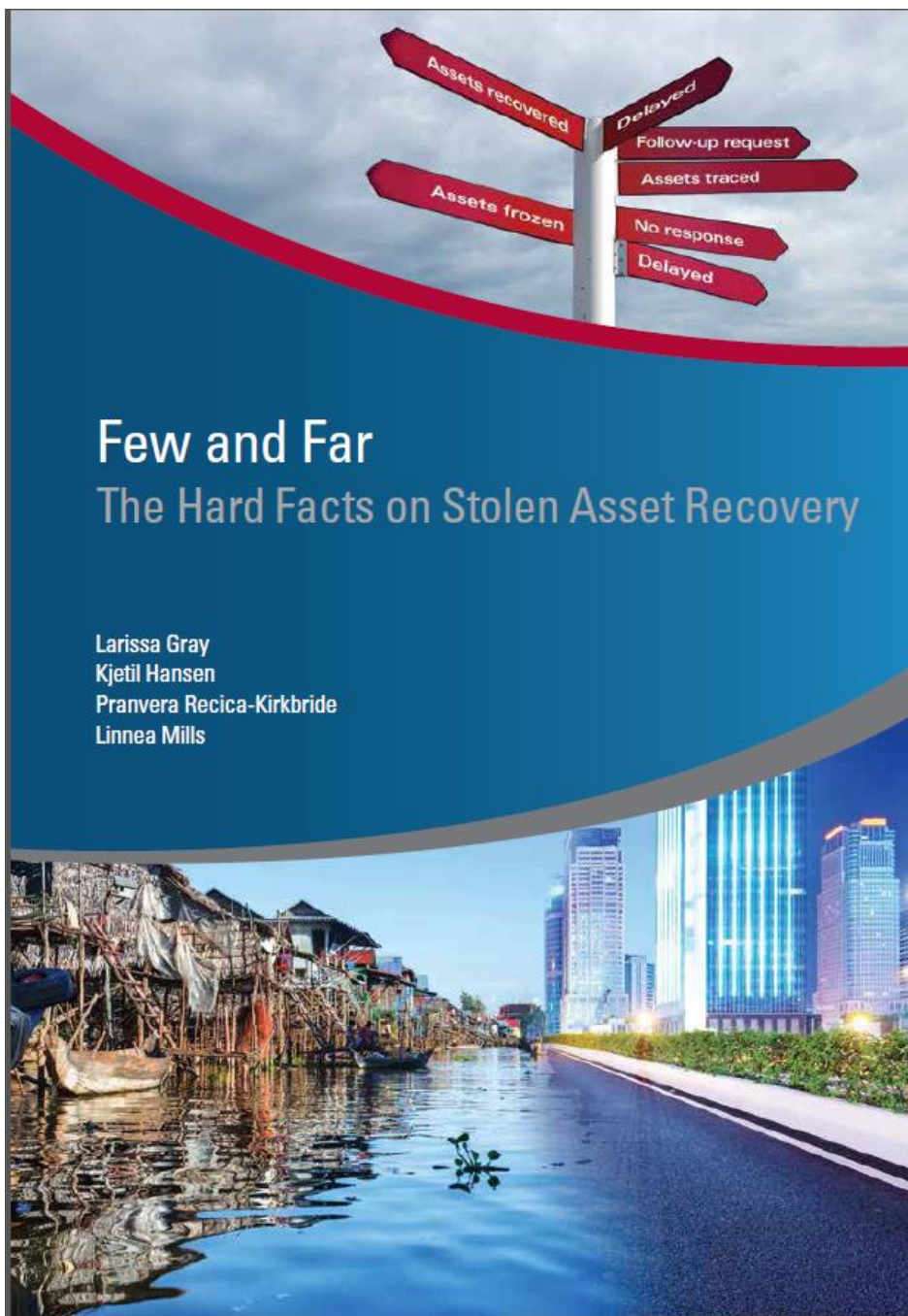
FATF PRESIDENT'S PAPER

**Anti-money laundering
and counter terrorist
financing
for judges & prosecutors**

June 2018



- <https://www.fatf-gafi.org/media/fatf/documents/reports/AML-CFT-Judges-Prosecutors.pdf>

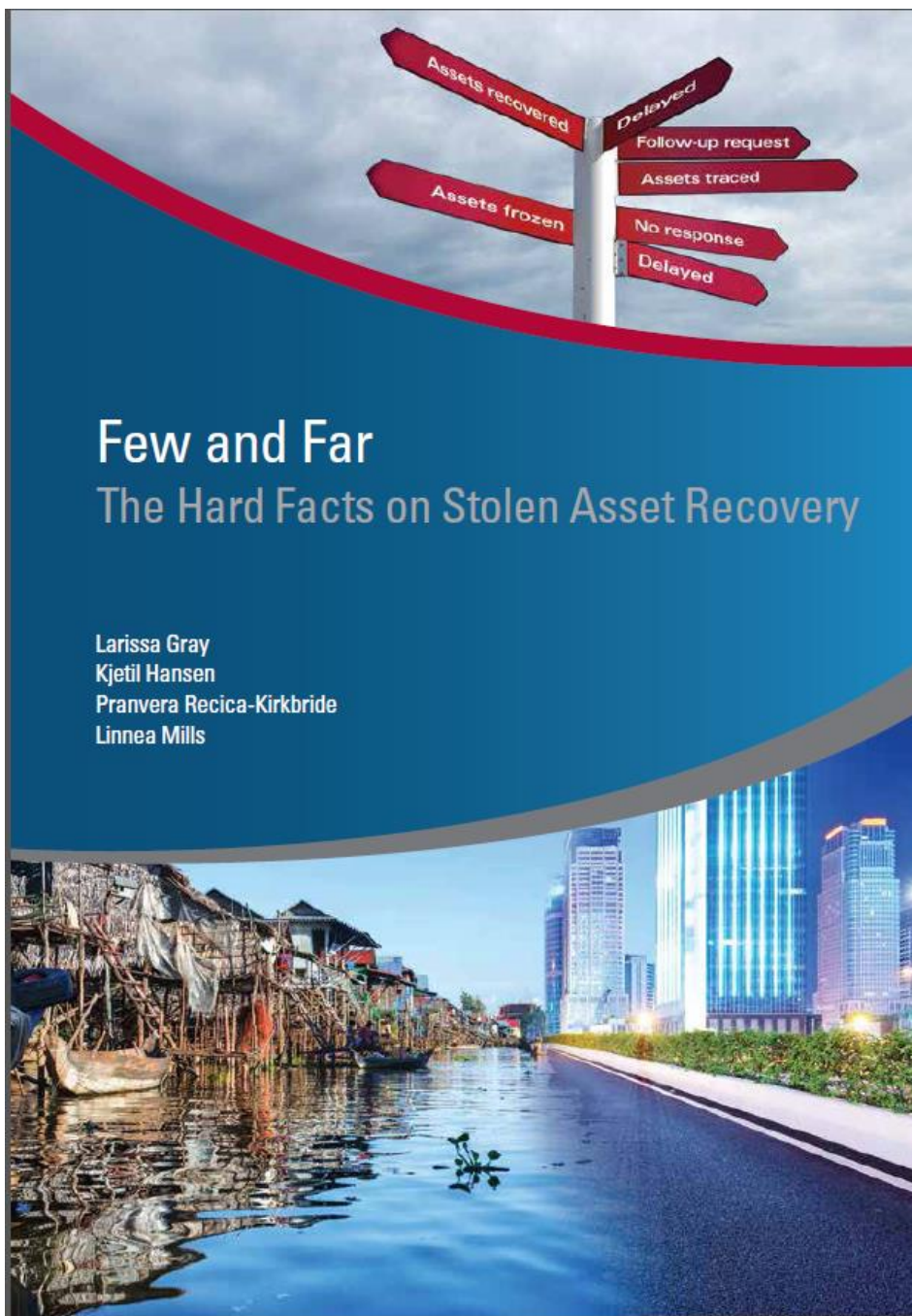


Stolen Assets Recovery Initiative, 2014

Overview of asset recovery progress in 34 countries (2010 - June 2012)

- The legal tools used most successfully to freeze and return assets were not the “traditional” ones
- Capacity building in developing countries can support asset recovery efforts
- Ultimately, a huge gap remains between the results achieved and the billions of dollars stolen from developing countries

<https://www.oecd.org/dac/accountable-effective-institutions/Hard%20Facts%20Stolen%20Asset%20Recovery.pdf>



Recommendations:

1. Obtain a high-level commitment to asset recovery
2. Provide the necessary resources
3. Ensure that a wide range of asset recovery tools are available and used
4. Be proactive, not reactive
5. Build capacity in developing countries
6. Collect statistics to measure results, and make them publicly available

Stolen Asset Recovery

A GOOD PRACTICES GUIDE FOR
NON-CONVICTION BASED ASSET FORFEITURE

Theodore S. Greenberg

Linda M. Samuel

Wingate Grant

Larissa Gray

NCB Forfeiture: Stolen Assets Recovery Initiative, 2009

- Practical tool for policy makers, investigators and prosecutors
- Reference book for training on NCB asset forfeiture

http://siteresources.worldbank.org/FINANCIALS/ECTOR/Resources/Stolen_Asset_Recovery.pdf



Contact info StAR

- Emile J. M. Van Der Does De Willebois,
Practice Manager of Stolen Asset Recovery
Initiative, the World Bank Group
- E-mail: evanderdoes@worldbank.org



- Financial Action Task Force, 2012

BEST PRACTICES PAPER

BEST PRACTICES ON CONFISCATION
(RECOMMENDATIONS 4 AND 38) AND A
FRAMEWORK FOR ONGOING WORK ON
ASSET RECOVERY

<http://www.fatf-gafi.org/media/fatf/documents/reports/Best%20Practice%20on%20%20Confiscation%20and%20a%20Framework%20for%20Ongoing%20Work%20on%20Asset%20Recovery.pdf>

October 2012



Prevention of and Fight against Crime 2000
With financial support from the Prevention of and Fight Against Crime Programme
European Commission - Directorate - General Justice, Freedom and Security

White Paper on Best Practices in Asset Recovery Centres of Excellence on Asset Recovery and Training 2012

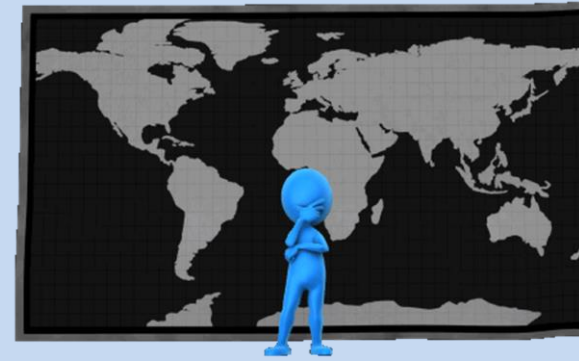
CEART PROJECT





Establishing a central unit for asset recovery

- Civil Confiscation, freezing
 - Proceeds of Crime Act
- Revenue Actions
 - Taxing criminal income
- Customs investigation
 - Investigate smuggling, and due VAT
- Social Welfare Investigation
 - Cut/Recover overpayments
- Criminal Investigation
 - Including Criminal Confiscation



Practical exercise:

Part 3

- How would you plan and conduct the investigation of assets abroad, in this case? If you have time, find an MLAT between any country and the UK and use this to illustrate.
- Once your investigation is done, and the case is ready for court, which legal tools would you use for asset recovery for the final court order of your investigation, against who and why?

Group Assignment:

A group member shares a case from his/her country involving asset recovery, and highlights any challenges the investigation faced

How were the problems solved?

Discuss in the group if the case could have been handled differently, based on what you now know



What topics from this lecture can you use in your job in the future?





Thank you for the attention

And remember:

**Follow the money,
and take it!**

Asset Recovery - Practical Exercise

Planning and conducting an Asset Recovery in a tax fraud case

Your office suspects a major case of tax fraud has been carried out by a food supplier company, Lemon LTD, in your country.

Lemon LTD is owned by one person: John Doe. He does not, however, hold any formal positions in the company. The formal positions are held by his two brothers, Hector and Paul.

The company's tax returns for the last 5 years states very low turnover, but large costs. Intelligence information suggests that the turnover is a lot bigger, and that the costs are inflated through false invoicing. There is a suspicion that the Doe brothers are using the company's money for private purchases.

In your country, Lemon LTD owns 10 stores and a small fabrication factory located in an industrial estate owned by John personally. The company also has a subsidiary company, Orange LTD, in the neighbouring country B, with 3 stores.

John lives in a large apartment on the coast with his wife Doreen and uses both an exclusive Mercedes and a Porsche. The house is registered in his name, but the cars are registered to Doreen. She has never had a job but enjoys buying expensive items. Some of John's contacts are people suspected of drug offences.

John and Hector own a large block of flats in the city centre. All 15 flats are rented out through an agent.

Your team receives a tip that John's two children are attending boarding school in UK. The family also makes frequent trips to the UK. Domestic bank statements reveal monthly transactions to a UK bank. The receiver account in the UK is held by a Mr. Smith. You suspect that this account is used to pay for the boarding school for John's children.

Possible tax claims against the company amounts to 2 million USD. There is a risk of Lemon LTD going bankrupt.

Part 1

1. As a supervisor/manager, what goal would you set for the investigation? Identify challenges in the planning stage, and how you would deal with them
2. What investigative tools would you use for asset recovery at this first stage of the investigation?
3. Identify challenges in collecting intelligence/evidence and how you would deal with them. What would be the consequence if you do not make any plans regarding securing the assets, at this stage?

Part 2

4. Identify challenges regarding securing assets after the Lemon LTD goes bankrupt and how you would deal with them.
5. Which legal tools would you use for asset recovery at this stage, and which assets would you choose?
6. Your team is on a search and seizure in [John and Doreen's home](#): What should your team seize or freeze in the apartment, and why?
7. What would be the consequence if you did not take any action regarding the assets, at this stage?

Part 3

8. How would you plan and conduct the investigation of assets abroad, in this case? If you have time, find an MLAT between any country and the UK and use this to illustrate.
9. Once your investigation is done, and the case is ready for court, which legal tools would you use for asset recovery for the final court order of your investigation, against who and why?