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AUSTRALIAN FEDERAL POLICE

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Economics Reference Committee on
Foreign Investment Proposals

QoN Number: 2

Subject: Reporting requirements under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and examples of money laundering through real estate

Asked by: Senator WHISH-WILSON

Question:

Senator WHISH-WILSON: I could understand that perhaps from the real estate agent's point of view, but you're saying that, for the lawyers and the accountants setting up these structures, some of them may not be aware that laundered money is being used.

Mr Jerga: Look, even in the real estate context, unless somebody is bold enough to put a pile of cash on your desk and say, 'I want to buy the property with cash,' a lot of other indicators might not be that obvious. One thing, just in terms of our powers under the Proceeds of Crime Act, is that we do have the power to coercively examine parties. In civil proceedings, as I noted—that is, there's no right to silence. So where we restrain assets and we're interested in answers from professional facilitators, whether there's any suggestion of any wrongdoing by them or otherwise, we will bring them in for examination and ask questions. That's a very powerful tool for us in our proceedings.

Senator WHISH-WILSON: Can I ask if you'll be doing that in relation to this particular case?

Mr Jerga: Look, this is probably at the point—and, hopefully, you've found me reasonably forthcoming to date—

Senator WHISH-WILSON: I have. Indeed.

Mr Jerga: This matter is very much going through the courts. There's plenty happening. I wouldn't like to say anything further.

Senator WHISH-WILSON: This bust was obviously high profile and made the news. Can you give the committee an indication of—we're just trying to get an idea of where, for example, the reporting requirements that we've got in place under the AML/CTF laws are working — whether there have been any other examples of money laundering through real estate that you have caught or been able to catch through the broader networks? You could provide this on notice.

Mr Jerga: We'll take that on notice.

Answer:

Money laundering offences are one of the most common offences relied on to ground proceeds of crime action. This reflects that the nature of proceeds of crime investigations involve finding and following money derived from offending. As such, any dealing with the proceeds of crime, such as the transfer of funds or the purchase of real property, will usually constitute the commission of a money laundering offence even if the intention behind the transfer or purchase is not about concealing the origins of the funds.

Real estate is one of the most common forms of assets targeted by the Australian Federal Police (AFP) led Criminal Assets Confiscation Taskforce (CACT), in matters involving both Australian and foreign nationals. The CACT does not keep statistics in relation to the percentage of its matters that involve domestic or commercial real estate, though this is considerable. However, a review of the fifteen mutual assistance matters that are currently being progressed by the CACT show that ten of those matters involve the restraint of real property or funds derived from the sale of real property. Further, of the approximately \$264 million in criminal assets restrained by the CACT during FY 2019-20, some 52% (or approximately \$137 million) was domestic or overseas real estate.

Matters referred to the CACT are identified from a broad range of sources including criminal investigations conducted by the AFP, other Commonwealth, State or overseas agencies, non-governmental organisations or other concerned citizens.

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