



EXAMPLES WHERE ACC OPERATIONS WOULD HAVE BEEN ENHANCED THROUGH NEW POWERS

28 August 2009

Senate Legal and Constitutional Affairs inquiry into the Crimes Legislation Amendment (Serious and Organised Crime) Bill 2009

Operation Dolon

Overview: Operation Dolon was an ACC/QPS investigation into the importation of high strength cannabis seeds, the commercial production and trafficking of cannabis, the manufacture of meth-amphetamine and related money laundering and tax evasion by a number of individuals based in Far North Queensland.

B was a target of Operation Dolon. B was arrested in June 2006. Following his arrest, B made extensive admissions in his records of interview as to both his unlawful activity and criminal benefit and as a result proceedings were commenced pursuant section 18 of the Proceeds of Crime Act 2002.

This matter was subsequently settled for an amount of \$250,000. The settlement figure was based upon admissions as to the sale of drugs by B.

During the course of the proceeds of crime proceedings a preliminary financial investigation revealed that B may have laundered significant funds and had acquired property valued well in excess of \$3 million in the 6 years prior to offence.

However, there was insufficient evidence to draw a conclusion in relation to this, and given the extent of the business activities of B it was considered by the CDPP that even a full financial analysis of B's business affairs may not have provided sufficient evidence to draw any meaningful conclusions in relation to this issue or to obtain final orders based on the balance of probabilities.

It was noted that in the 6 years prior to the commencement of proceedings B had derived an approximate income of around \$300,000 (based on ACC financial analysis). Therefore, his wealth appeared to have exceeded his income by approximately \$2.7 million.

If the proposed unexplained wealth provisions were applied in this case then there would have been reasonable grounds to suspect that B's total wealth exceeded the value of his wealth that was lawfully acquired and B could have been compelled to prove, on the balance of probabilities, that his wealth was not derived from offences in connection with a Commonwealth power. I note if B could not demonstrate this, then under the proposed legislation the court would have to order B to pay the Commonwealth the difference between his total wealth (\$3 million) and his legitimate wealth.

FIAT 02308

Overview: Money remittance businesses linked to key entities are moving large value of funds offshore without proper identification details being disclosed. Links have been identified between these businesses and organised crime groups in two jurisdictions who are reasonably suspected of using this service to launder the proceeds and instrument of crime. It is possible that one of the entities may be linked to an international network moving funds through a variety of third-party countries, to a country where Australian law enforcement will have difficulty obtaining evidence.

This matter involves approximately A\$100 million remitted offshore over several years. **Note:** Percentage of funds linked to organised crime remains unknown at this point.

In this instance unexplained wealth provisions may be able to be used to restrain available funds, and reverse the onus of proof in relation to the co-mingling of funds.

FIAT 01407

Overview: A serious and organised criminal entity owns a substantial residential property portfolio worth in excess of A\$9 million. Concerns were raised over a) how the entity and associates managed their loan service commitments, and b) the entity's ability to offset capital gains tax realised from the sale of properties. It is reasonably suspected that the loans were being serviced by co-mingling criminal proceeds of crime.

This presents an opportunity to use unexplained wealth provisions to seize funds, property and business equipment and place the onus on the entity to declare how the entity is able to finance and service the loans linked to the properties.

FIAT 01008

Overview: Large turnover of funds (A\$2M per annum) has been identified going through bank accounts of entities linked to the operation of a chain of retail stores while A\$10 million has been remitted offshore by the same entities.

The funds being remitted offshore have not been linked to any legitimate business activity and are reasonably suspected of being used to finance the importation of illicit drugs.

Unexplained wealth and proceeds of crime provisions could be used to freeze and restrain funds in bank accounts and assets until the entity can explain the source of funds.

FIAT 02508

Overview: A family group with large residential and commercial property portfolio worth over A\$20 million are involved in the remittance on and offshore of approximately A\$2.5 million. Unexplained deposits into third party bank accounts held by non-residents of over A\$22.8 million have also been identified. It is reasonably suspected that tax offences have been committed by moving funds off shore and back onshore via trusts.

This legislation presents an opportunity to use unexplained wealth provisions to restrain funds and property.

FIAT 02408

Overview: An entity on a visa is reasonably suspected of being involved in money laundering and importation / distribution of illicit drugs. Current visa restriction means that this entity is not allowed to work and must be financially supported by a spouse who earns a modest wage. Unexplained cash deposits into bank accounts, and a high level of spending on restaurants, accommodation and purchases of luxury goods are not commensurate with the stated income of the entity's spouse.

Over several years approximately A\$620,000 in unexplained cash and cheque deposits have been made into bank accounts. A further A\$600,000 was sent offshore.

Unexplained wealth laws could be used to strip the entity of luxury items in this instance.

FIAT 00308

Overview: A person involved in the hospitality industry has sent approximately \$A500,000 per year offshore for several years. The monies appear to be from cash sales associated with the hospitality businesses. Approximately A\$200,000 of this is returned annually. This activity is reasonably suspected of being linked to tax evasion.

Opportunity to use unexplained wealth provisions to restrain funds, property and business equipment would exist in this instance.