



Serious Fraud Office

ANNUAL REPORT 2006/07





Serious Fraud Office

Annual Report

from 5 April 2006 to 4 April 2007

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Contents

- 1 Director's letter to the Attorney General
- 3 Aims and Objectives
 - Criteria for acceptance of cases

Part 1

Review of the year

- 4 Case results
 - Major cases
- 5 The fraud review and a review of the SFO
 - Asset recovery
- 6 Developments in forensic computing
 - Evidence management and presentation
 - Overseas corruption
- 7 International assistance and liaison
 - Legislative developments

Part 2

Management, staffing and support

- 8 Management
- 9 Staffing
- 10 Financial resources
- 11 Procurement
 - Facilities
 - Information technology

Part 3

Key facts and figures

- 12 Workload
 - Trial results
- 13 Restraint and confiscation
 - Sentencing
- 14 Progress of proceedings underway
 - Geographic distribution of cases
- 15 Use of statutory powers
 - Recipients of Section 2 notices
 - Mutual legal assistance (MLA)

Part 4

Cases and proceedings

- 16 Introduction
- 17 Completed cases
- 20 Proceedings underway

Part 5

Anatomy of a fraud case

- 22 Izodia's missing millions

Part 6

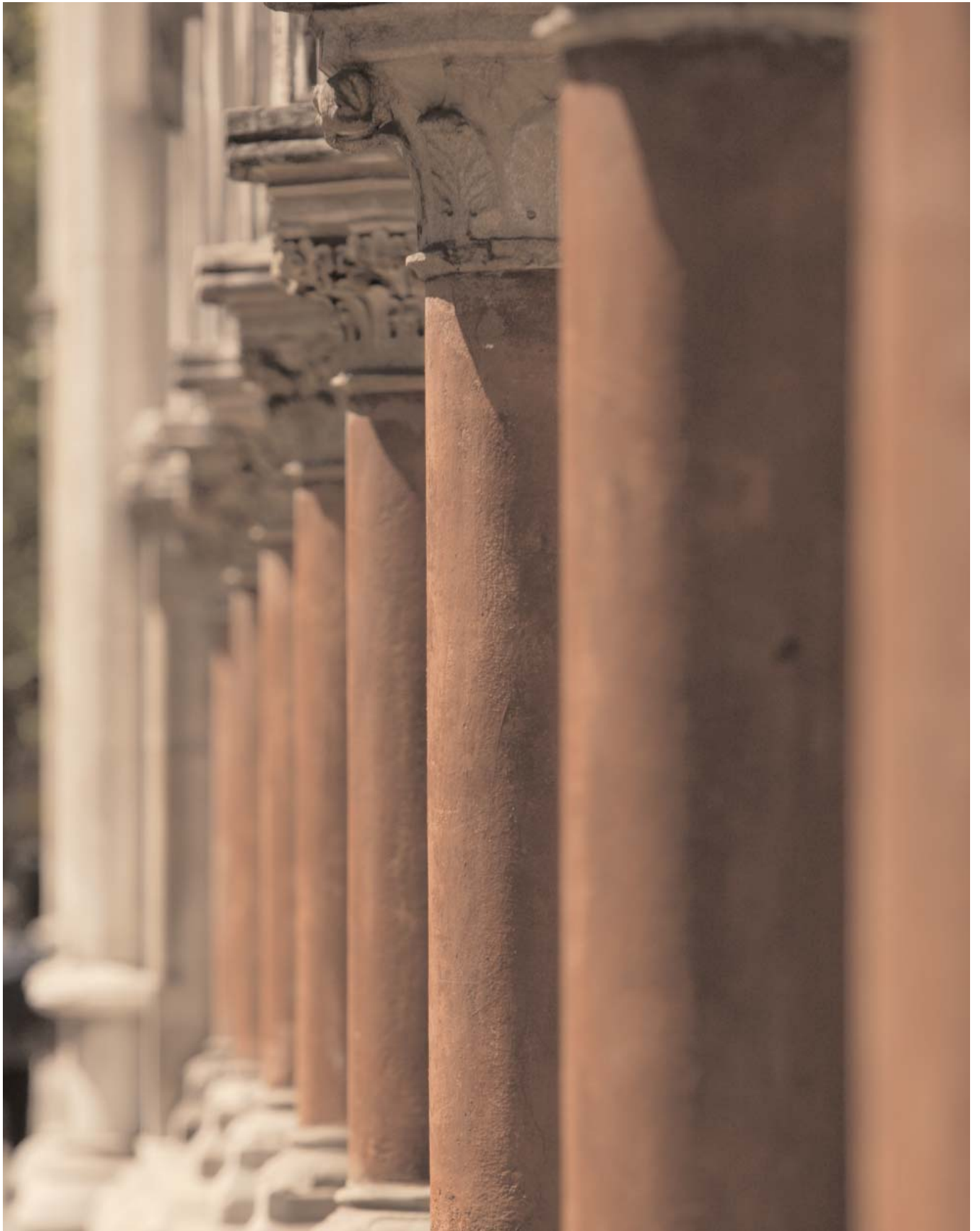
A closer look

- 34 The work of the vetting, standards and overseas corruption unit
- 37 Jessica de Grazia and the review of the SFO

Appendix

- 39 Organisation chart





LETTER TO THE ATTORNEY GENERAL

I have pleasure in enclosing my report on the work of the Serious Fraud Office in the year 2006/07.

During the course of the year we completed 11 trials involving 21 defendants. Fifteen were convicted and six acquitted. Four other individuals were not proceeded against for various reasons and at the year-end a further two were awaiting sentence.

These bald statistics do little to reflect the difficulties encountered in investigating and bringing cases to

court and the painstaking work of our lawyers and investigators as well as the police. We only accept the most complex and difficult cases where the public interest requires their investigation and, if there is sufficient admissible evidence to justify it, a prosecution. The cases which the SFO currently has either under investigation or prosecution are all of high public interest, demonstrated in many instances by the interest shown by the media. All represent, inevitably, substantial risks to the reputation of the

SFO; if they did not they would be dealt with otherwise.

This year we have increased our efforts in investigating allegations of corruption overseas. In 2002 the law was clarified to put beyond doubt that the making of corrupt payments by British nationals and companies to officials or agents of principals overseas is triable in the courts of the United Kingdom. We have commenced investigations in thirteen cases and are considering investigations in a further eighteen. We have also commenced an investigation into allegations passed to us by the United Nations concerning Iraq. The size of this investigation is such that additional funding from the Treasury had to be secured before we could undertake it.

One of the most significant events in the year, and certainly the one to attract the most press attention, was my decision to discontinue the investigation into BAe Systems plc in respect of arms contracts with the Kingdom of Saudi Arabia. A prosecutor must act independently but cannot ignore wider public interest implications. My decision, which Lord Goldsmith QC announced in parliament on 14 December 2006, reflected the advice I had received that continuing the investigation would cause significant damage to national security. I took the view that the public interest in continuing an investigation with an uncertain result over a protracted period was outweighed by the damage that would be caused. That decision, which is the subject of an application for judicial review, led to a great deal of often inaccurate reporting. It was portrayed as



Robert Wardle, Director of the SFO

that of 'the Government' whereas it was made by me independently.

In other areas we have brought charges against nine individuals and five companies of conspiracy to defraud the Department of Health by fixing the market price of certain generic drugs. These charges follow a lengthy and substantial investigation. The case is due to be tried in January 2008.

We have made increasing use of the provisions of the Proceeds of Crime Act 2003, seeking, where appropriate, to restrain the assets of those under investigation or subject to prosecution so that they are not dissipated and will remain available should the courts make a confiscation order. The asset recovery unit is now well established in the SFO, providing advice to the operational teams as well as applying for restraint orders, investigating the location of assets and, eventually, recovering them. During the year eleven confiscation orders were made to the value of approximately £5 million. Approximately £200 million is the subject of restraint orders. Actual recoveries included a single payment of £10 million, which will go principally to those who lost as a result of the fraud.

Our relations with investigating, prosecuting and judicial authorities overseas are vital to the success of our work. Most cases have a significant international element and we rely on assistance from our colleagues overseas to obtain vital evidence. In turn we provide assistance to those colleagues when they want investigations carried out here, or when they seek the restraint or confiscation of assets. During

the year at the SFO we met with nearly 200 investigators, prosecutors, judges and ministers from 34 countries. For colleagues from developing nations we also provide specialist training in the management of large cases and in financial investigation techniques.

During the year the fraud review team's report went out for consultation. The report and its recommendations have been warmly received and we look forward to working on the various groups set up to develop those recommendations. A national strategy for tackling fraud, a national reporting centre and better sharing of intelligence data are all welcome, but they will be of comparatively little effect until the problem of providing police resources to investigate crimes of fraud is resolved. In our past reports previous Directors and I have commented on the diminishing resources devoted by the police to the investigation of fraud. Additional resources are still required; even though the City of London Police now acts as a lead force in the south east of England there is a limit to its capacity to investigate the sheer number of cases we see. Similarly welcome are the suggestions for establishing a framework for plea and sentence negotiation and for the establishment of a financial court jurisdiction which would deal not only with the criminal allegations but also with the regulatory and perhaps civil issues that arise from essentially the same facts.

The Fraud Act 2006 came into force on 15 January 2007 and, again, I welcome it. The act simplifies the law and should make the investigation and

prosecution of fraud simpler as well as making it easier for jurors to understand. Of course, the act is not retrospective and so it will be some while before we are able to gauge how effective it is. It was, however, disappointing that the House of Lords rejected the Fraud (Trials Without a Jury) Bill which would have allowed for trial by judge alone in certain very complicated and lengthy cases. There remains a small number of cases which simply put too great a strain on a jury, or would do if relevant admissible evidence was not cut out of the case in order to make it manageable within a reasonable timescale. It is these cases in which justice is not being done and I anticipate that even with better trial management the issue will not go away.

Throughout the year demands on my staff have been heavy and, as ever, they have devoted themselves to their work with energy, thoroughness and, above all, integrity. My thanks go to them and to the non-executive directors who have supported me throughout the year.



R J Wardle

Director
Serious Fraud Office

Aims and Objectives

The Serious Fraud Office aims to contribute to:

- a) reducing fraud and the cost of fraud;
- b) the delivery of justice and the rule of law;
- c) maintaining confidence in the UK's business and financial institutions.

To achieve these aims the SFO takes on appropriate cases and:

- a) investigates and brings them to a successful conclusion as quickly as individual circumstances allow; and,
- b) when a decision to prosecute is made, prosecutes fairly and in a way that enables the jury to understand the issues.

In carrying out its aims and objectives the SFO will:

- a) work effectively and efficiently;
- b) co-operate with other agencies and overseas jurisdictions; and,
- c) ensure that its activities, and the way they are reported, contribute to deterring fraud.

Criteria for acceptance of cases

The key criterion for the SFO to take on a case is that the suspected fraud was such that the direction of the investigation should be in the hands of those who will be responsible for the prosecution.

The factors that would need to be taken into account include:

- a) Whether the sum at risk is estimated to be at least £1 million. (This is simply an objective and recognisable signpost of seriousness and likely public concern rather than the main indicator of suitability.)
- b) The case is likely to give rise to national publicity and widespread public concern. Such cases include those involving government departments, public bodies and the governments of other countries, as well as commercial cases of public interest.
- c) The investigation requires a highly specialist knowledge of, for example,

financial markets and their practices.

- d) The case has a significant international dimension.
- e) There is a need for legal, accountancy and investigative skills to be brought together as a combined operation.
- f) The suspected fraud appears to be complex and one in which the use of Section 2 powers (Criminal Justice Act 1987) might be appropriate.



REVIEW OF THE YEAR

Case results

In this year 11 trials were completed, involving 21 defendants, of whom 15 were convicted and six acquitted (four other defendants were not proceeded against). This produces a conviction rate for the year of 71%. All defendants convicted were sentenced to terms of imprisonment and sentences ranged from eight months to eight years. In addition, seven defendants were disqualified from acting as company directors and eight were subject to confiscation orders. More information about these cases is given in part four of this report.

Looking at prosecution results over the past five years: 166 defendants have been tried and 102 convicted, producing a conviction rate of 61%.

Major cases

This year saw significant developments in a number of our major cases. These included: charges being brought in a pharmaceuticals price-fixing case (Operation Holbein); the closure of an investigation into BAe Systems plc; the opening of an investigation into breaches of UN sanctions; and a prosecution in relation to the Imperial Consolidated Group.

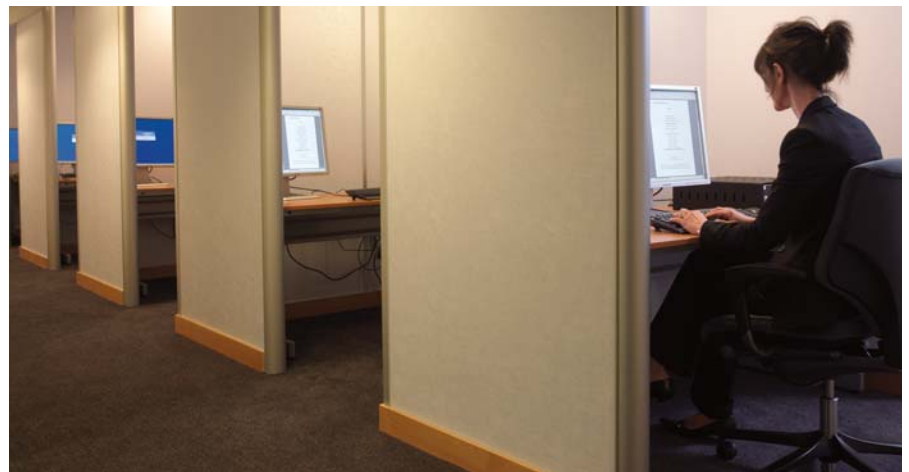
Operation Holbein: In April 2006 nine individuals and five companies were charged with conspiring to defraud the Department of Health by secretly sharing the market and fixing the price of certain generic drugs.

To support this case an electronic disclosure suite has been built at our Elm House premises to allow defence lawyers to perform electronic searches on the unused material disclosed to them under the terms of the Criminal Procedure and Investigations Act 1986. The suite is expected to be made available to other SFO cases in future. The Operation Holbein case is expected to come to trial in January 2008.

BAe Systems plc: In December 2006 the investigation into allegations of corruption in connection with BAe and the Al Yamamah defence equipment contract with Saudi Arabia was discontinued. The Director decided that to continue the investigation was not in the public interest as it would risk substantial harm to national and international security. We are continuing to investigate other allegations of corruption in connection with other jurisdictions.

The announcement of the decision attracted considerable public attention. As well as many press enquiries, a large number of parliamentary questions were asked of government law officers and the matter was debated in parliament. The decision is subject to an application for judicial review, which is currently before the courts.

United Nations sanctions: A new investigation commenced in January 2007 into alleged breaches of UN sanctions



The disclosure suite

concerning Iraq during the period prior to 2003. The focus will be on offences in respect of the sale of oil and the provision of goods that were purchased with the proceeds of those sales. The size of the case has required the securing of additional funding from the Treasury, and this has been achieved with the support of the Attorney General.

Imperial Consolidated Group: Following a major investigation by the SFO and Lincolnshire Police, five defendants were charged in June 2006 with conspiring to defraud investors in the Imperial Consolidated Group of companies. Witnesses have been interviewed throughout the world, including the US, Japan, Australia, New Zealand, the Bahamas, Grenada and many other countries.

The fraud review and a review of the SFO

In July 2006 the Attorney General and the Chief Secretary to the Treasury published for public consultation the final report of the government's inter-departmental review of arrangements for the detection, investigation and prosecution of fraud. We have supported the review body in its work, which began in

2005. The report sets out a co-ordinated strategy, encouraging the public and private sectors to work together to tackle fraud. It makes a considerable number of recommendations, including the establishment of a national strategic authority and a national fraud reporting centre, the improvement of trials and the possibility of establishing a 'financial court'. We particularly welcome the recommendation that the City of London Police should become a centre of excellence in investigating fraud, which will also encourage the creation of additional expertise across all police services. The proposal to establish, in appropriate cases, a framework for plea-bargaining (or 'indicative sentencing') is also strongly welcomed and we look forward to participating fully in any working group set up to devise a legal framework for implementation.

The review was well received by both the private and public sectors. Work on its proposals continues under a programme board chaired by the Attorney General.

Following the fraud review, the Attorney General and the Director of the SFO announced in March 2007 that they were



commissioning a review into the way the SFO approaches its cases. The intention is to strengthen the SFO in its approach to investigation, enhance its ability to bring more cases before the courts and to enable those cases to be tried more quickly. The review of the SFO will take into account the relevant recommendations of the fraud review and will assist in taking forward the government's overall strategy for tackling fraud. It will be conducted by Jessica de Grazia, an appropriately experienced former US senior prosecutor, who will look at practice in other countries as well as the United Kingdom. *(An interview with Ms de Grazia begins on page 37 of this report.)*

Asset recovery

In this report year we obtained 27 restraint orders, including five on behalf of foreign authorities. The value of assets restrained in relation to SFO investigations is approximately £115 million; another £86 million is restrained in connection with investigations commenced by authorities in other countries.

Since the power to seek confiscation orders in fraud cases was introduced in 1989 we have obtained orders to a value of approximately £50 million. In this report year eleven confiscation orders totalled approximately £5 million (not all have been satisfied as some are subject to appeal and in others time to pay has been granted). One particularly substantial confiscation order, for just over £10 million against Carlton Cushnie

Since the power to seek confiscation orders in fraud cases was introduced in 1989 we have obtained orders to a value of approximately £50 million



Tokyo's financial district

of Versailles plc, was made in the previous reporting year but has been paid in this one; there was also a compensation order in the same amount, which has allowed money to be returned to victims. In another case, George Steen, who was convicted in 2003 for an advance fee fraud, was ordered to pay more than £1 million. The total value of confiscations ordered during the year was £13.7 million.

Our asset recovery unit also provided training sessions to staff and to visitors from abroad, including delegations from Malaysia, Ghana and Panama. Topics covered have included investigation powers under the Proceeds of Crime Act 2002, how foreign restraint and confiscation orders can be registered in the UK, and how assets can be returned to other countries. We have also invited outside speakers – including counsel and receivers specialising in this field – to give talks to SFO staff on aspects of asset recovery.

Developments in forensic computing

Obtaining evidence from computerised and digital sources continues to be an important, but also increasingly challenging, task. The capacity of storage devices has increased so considerably that, since a large part of this team's work is to acquire, secure and process this material, the productivity of the unit must increase year-on-year.

During the year we conducted an internal review of our forensic computing capacity. The background to the review was the need to address the increasing workload facing the unit and to continue to recruit the highly-skilled and professional individuals who perform this work. The principal development, which commenced in early April 2007, was to re-organise the unit into teams, each of which supports one or more operational divisions. The benefits of this will include improved communication between the computer forensic specialists and their divisional 'customers' as well as an improved ability to prioritise resources within each division's workload.

The unit continues to host two officers from the City of London Police, allowing for a useful exchange of knowledge whilst also providing the City force with access to the SFO's specialist equipment. We now have a specially equipped support vehicle which can be deployed to locations where material is being seized, allowing us to complete searches more quickly by processing material more efficiently on site. The vehicle (pictured below) has been acquired by the SFO and is operated by the City of London Police. It can also be used as a mobile control centre.

Evidence management and presentation

During the year work has progressed on the

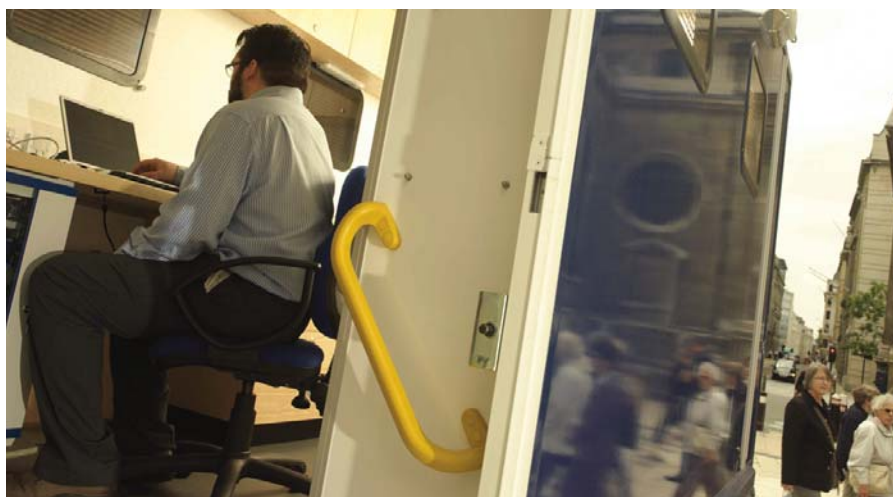
development of *Case Toolkit*, an enhanced version of the *Docman* evidence management system. *Docman* was implemented in 2004/05 and, by the end of this reporting year, was deployed on 38 cases. The work on *Case Toolkit* brings together the development of *Docman* with our programme of work on operational processes and standards.

Our graphic design unit specialises in providing presentation materials for use during a trial to help jurors gain a better understanding of the complex matters under consideration. During the year the graphics unit worked on 17 cases, eight of which were completed at trial. It also assisted the City of London Police in preparing graphics for two cases prosecuted by the Crown Prosecution Service and it contributed to a joint study by the Attorney General's Office and the Office of Criminal Justice Reform into improving the use of electronic systems in the preparation and presentation of evidence.

Overseas corruption

The SFO takes the lead in examining allegations of corruption committed overseas by UK individuals and companies and also maintains the register of these allegations. We work closely with our colleagues in the City of London Police who have used dedicated funding from the Department for International Development (DfID) to establish a specialised unit of ten detectives to investigate such allegations. There are 13 cases currently under investigation and a further 18 being considered for investigation. Such cases are difficult and time consuming, usually requiring evidence from overseas which is often, by its nature, difficult to obtain. (A profile of the SFO's vetting, standards and overseas corruption unit can be found starting on page 34.)

We welcome the Home Office decision to refer the law of corruption to the Law Commission. This law requires an overhaul to bring it up to date and make it fit for modern ways of doing business.



International assistance and liaison

Our mutual legal assistance (MLA) work on behalf of overseas authorities has increased in recent years. A fuller account is given in section three of this report.

As part of our liaison with authorities overseas we receive numerous official visits to discuss general matters as well as a considerable number to discuss individual cases. Nearly 200 overseas investigators, prosecutors, judges and ministers, from 34 countries, were received at the SFO during the report year. Our official visitors come to learn about SFO practices and developments and the experience helps to forge closer relations between our respective organisations and to facilitate opportunities for co-operation on case-related matters.

The SFO is widely regarded as a centre of excellence for its case management processes and investigation/prosecution work, particularly so among criminal enforcement organisations in the Far East and Africa. We routinely receive requests to train overseas law enforcement officers and this year we undertook more *pro bono* work than ever.

Representatives from the Ghanaian Serious Fraud Office attended a two-week course that focused on large case

management, mutual legal assistance and financial investigation techniques. A one-week training course, which concentrated on building core competencies in investigation techniques and case management skills, was provided for the Nigerian Securities and Exchange Commission.

As a member of the European Commission's anti-fraud communications network, through its Office European de Lutte Anti-Fraud (OLAF), our external communications unit has collaborated in providing training seminars in Brussels and Sofia for press officers from the national agencies of EU member states.

Legislative developments

Serious Crime Bill: This bill is currently progressing through parliament. It will give the SFO additional powers to obtain crime prevention orders and to use the civil recovery powers currently exercised by the Asset Recovery Agency. These new powers will add flexibility to the range of responses available to the SFO in tackling serious or complex fraud. We anticipate that the Serious Crime Bill will become law this year.

Fraud (Trials Without a Jury) Bill: It was a disappointment that this bill was rejected by the House of Lords. It would have enabled a

small number of cases – but the most serious and complex fraud cases – to be heard by a judge alone, subject to certain safeguards including approval by the trial judge and the Lord Chief Justice (or his representative). We welcome confirmation by the Attorney General that the bill is to be reintroduced next session with a view to the government using the Parliament Act to ensure it becomes law.

Fraud Act 2006: This act, which applies to offences committed on or after 15 January 2007, introduces three new core fraud offences, replacing the old deception offences under the Theft Act. Now the offender has to dishonestly make a fraudulent representation, or abuse trust, or fail to disclose information with the intent to cause a loss or gain. The new offences will be easier to prove as they do not require the prosecution to prove that there was an actual victim or that anyone in particular was deceived (although this may still be relevant in establishing dishonesty). The long investigation time, typical in SFO cases, means that it will be some years before the new offences are regularly charged. However, there is one current case in which an offence under the Fraud Act 2006 is already under consideration.

Conspiracy to defraud: We fully support the decision to retain the common law offence of conspiracy to defraud. Its advantage is that it can reflect the totality of the offending by several offenders in one charge, whereas the new fraud offences still need each specific illegal act to be proved. The retention of this controversial offence will be reviewed three years hence, by which time the new fraud offences will have been widely used and will also have been considered by the appeal courts. A new requirement for all prosecutors to keep a record of when the conspiracy to defraud offence is deployed will also provide new insights into how it is used so that a better informed decision on retention will be possible when the time comes.

It was a disappointment that the Fraud (Trials Without a Jury) Bill was rejected by the House of Lords



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MANAGEMENT, STAFFING AND SUPPORT

Management

The Director is supported in the overall management of the organisation by a strategic management board, and in the management of investigations and prosecutions by an

operational management board. The composition of these boards is given in figure one below. The organisation's structure is illustrated in the appendix on page 39.

Fig. 1

Strategic management board

Robert Wardle	Director*
James Kellock	Deputy director*
Bob Evans	Head of resources and planning*
Stephen Low	Head of accountancy profession*
Vicky O'Keeffe	Head of policy*
Dame Elizabeth Neville QPM	Non-executive director
Harriet Maunsell OBE	Non-executive director
Alan Graham	Non-executive director

* also on the operational management board along with:

Graham More	Head of division A
John Benstead	Head of division B
Philip Lewis	Head of division C
Helen Garlick	Head of division D
Philip Blakebrough	Head of division E
Roddy Gillanders	Head of division F
Ruth Curry	Head of HR and finance



Staffing

At the end of the reporting year we had 311 permanent and three non-permanent staff. During the course of the year we also engaged 58 agency workers and 16 consultants. We have improved our recruitment processes to make them more efficient and effective and we have introduced a web-based application form which has simplified the application process and allows greater use of online recruitment. We have also rationalised our approach to temporary staffing by adopting a framework contract which enables us to access specialist and high quality skills whilst still achieving significant cost savings.

Staff development: We continue to invest substantial resources in staff training and

development. Ninety-six internal courses and seminars, across twenty-three different types of training activities, were delivered during the year. Most of them focused on operational requirements, including: investigative interviewing and statement writing; giving evidence in court; providing an overview of computer forensics and company law. In addition we introduced an accredited training programme for investigators which follows the lifecycle of an investigation.

Equality and diversity: The equality and diversity committee oversees activities related to these issues within the organisation. The committee meets quarterly and is chaired by non-executive director Dame Elizabeth Neville QPM.

As a government department we are legally required to publish equality schemes describing our approach to the promotion of equality in race, disability and gender. The race equality scheme has been published and we plan to publish a combined race, disability and gender scheme in due course which will be updated to cover all strands of diversity.

We host bi-annual diversity networking meetings. These are not aimed solely at any group or groups but are intended as an opportunity to learn that the issues that affect diverse groups in fact affect us all. Guest speakers include representatives from lawyers' groups and the police. Subjects discussed have included gender and disability, as well as black and minority issues. These events are

Ninety-six internal courses and seminars, across twenty-three different types of training activities, were delivered during the year



opened by either the Director or Deputy Director and are followed by light refreshments and networking. We plan to extend these events to cover issues such as work-life balance and the combining of work with caring responsibilities.

We are committed to the principles of promoting diversity within the senior Civil Service as outlined in the Civil Service ten-point plan.

Respect programme: In June 2006 we introduced respect programme training. Over 200 staff members, including management board members and non-executive directors, had attended by the year-end. Evaluation so far indicates that the course is meeting its objectives and that staff members are finding the experience valuable.

Prayer/quiet room: In November 2006 we made provision for a prayer/quiet room, temporarily located in our premises in the ITN building. The room is intended for prayer or quiet reflection by all staff, of any faith, religion, belief or non-belief. It also affords the opportunity for privacy in a largely open-plan working environment, and we can also offer the facility to any SFO visitors who may have a specific religious or cultural need. A permanent location will be provided in the final phase of the Elm House refurbishment.

Internal communications: We have reviewed the way we communicate internally and have put in place new channels of communication which complement and support the work of the organisation. Quarterly management board question time sessions now enable staff to ask questions of the combined management boards on any subject. Three sessions were held during the year; all were well-attended with a wide range of topics discussed.

The introduction of a modern intranet marks a new era in internal communications at the SFO. It provides all staff with a dynamic, one-stop shop for all SFO



information and news, including key events and guidance on administrative procedures.

An operational handbook, providing guidance on policy and procedures in the investigation and prosecution of serious and complex fraud, is now available to all staff in an easily navigable form on the intranet, with links to associated guidance and documents and to the websites of other organisations. It is also available to the public on our website at www.sfo.gov.uk.

Financial resources

The SFO is funded through a single resource ‘vote’ which is divided into:

- administration – related to the organisation in general, including costs for staff and accommodation; and,
- investigation and prosecution expenditure – including counsel fees, witness expenses and other direct case costs.

No specific provision is made to cover very large cases. These are subject to individual negotiation with the Treasury.

The table below sets out the actual total public spending of the SFO in recent years, the provisional out-turn for 2006/07 and the

planned spend for 2007/08. The amounts include the resource and capital expenditure (less depreciation charges) for each of the years including both core activities and very large specific cases. More detail can be found in the resource accounts and departmental reports at www.sfo.gov.uk.

Our resource accounts for 2005/06 received an unqualified opinion from the National Audit Office, and we met our objective of laying the accounts before the parliamentary summer recess. The out-turn for 2005/06 in terms of total public spending was largely in line with the estimate published in the 2005/06 annual report.

Total public spending (£ million)

Year	Type	Amount (£ million)
2000/01	Actual	19.8
2001/02	Actual	23.1
2002/03	Actual	26.3
2003/04	Actual	28.2
2004/05	Actual	34.2
2005/06	Actual	41.8
2006/07	Estimated	42.6
2007/08	Planned	37.7

Figures are total resource and capital, less depreciation

Procurement

By redeploying staff from our facilities management team we have created a new commercial section within the corporate services division. The new section's brief is to review and update the SFO's contractual arrangements, creating a more robust management regime and so ensuring value for money and compliance with UK and EU procurement law. To this end we have agreed and distributed internally a procurement strategy for staff guidance.

Following on from this a number of new contracts have been let, including those to provide recruitment of temporary staff (utilising a framework contract) and agreements for the supply of various training packages. Matters currently under consideration include the potential for services to be shared between departments, off-site document storage facilities and travel arrangements. Wherever feasible we are building in requirements to meet sustainability targets.

Facilities

Our offices in Verulam Gardens having been vacated, we have now consolidated our

accommodation on two sites, Elm House and the ITN building at 200 Gray's Inn Road, whilst continuing the refurbishment of Elm House begun last year. Three of our investigation divisions have been relocated to 200 Gray's Inn Road.

As part of our commitment to the government's sustainable development targets the electricity used at 200 Gray's Inn Road is obtained from renewable sources. Recycling schemes for paper, glass, cans and plastic packaging have all been introduced, as have additional 'green' travel options for staff, supported by extra cycle storage and improved shower facilities.

Finally, we have renegotiated all the main facilities supplier contracts – including stationery, building maintenance, vehicle hire, travel and recycling – in order to take advantage of OGC frameworks, increased efficiencies and better value for money. (The Office of Government Commerce is an independent part of the Treasury responsible for improving value for money in government.)



Information technology

During the year we appointed SunGard Vivista as our new IT support services supplier. One of the key benefits of this new contract is the inclusion of 300 service pool hours each month; the full utilisation of these has resulted in 2,400 hours of infrastructure enhancements at no additional cost. We now have measurable performance targets in place for IT support and the SunGard team is achieving service levels above 98.75% total service availability.



200 Gray's Inn Road (far left) and Elm House (far right)

KEY FACTS AND FIGURES

This section contains the principal data relating to the workload of the SFO and trial results during the year.

Workload

Our workload represents cases that are either under investigation or where proceedings have commenced. There were 64 such cases at the year-end (excluding cases that have been tried but may still have outstanding

post-trial issues such as confiscation or appeals). An assessment is made of the sum at risk in each case; the total for the report year being nearly £2.4 billion.

Fig. 1

Active cases at start of year	63 (sum at risk £2.47 billion)
Referrals accepted (out of 68 made)	18
Cases worked on during year	81
Investigations closed, not prosecuted	6
Cases completed at court	11
Total cases concluded	17
Cases on-going at year-end	64 (sum at risk £2.38 billion)

Trial results

Eleven cases were completed, involving 11 trials with 21 defendants, of whom 15 were convicted and six acquitted. Four other

defendants were not proceeded against. One case cannot be identified here for legal reasons.

Fig. 2

Case name	Defendants		Convicted		Acquitted			
	charged	tried	jury	plea	jury	order	npa*	stayed
TransTec	2	2	-	1	1	-	-	-
Abdallah Ali Jammal	2	2	-	1	-	1	-	-
Eryl Management	3	3	-	1	2	-	-	-
Legacies	3	3	-	2	1	-	-	-
Izodia	3	1	-	1	-	-	2	-
Ironfirm/Mars (Trial 2)	1	1	1	-	-	-	-	-
Cosgrove Packaging	1	1	-	1	-	-	-	-
Case R**	5	4	1	2	1	-	1	-
Barnsley College	2	1	-	1	-	-	1	-
Corporate Advances	1	1	1	-	-	-	-	-
Preston Whiteside	2	2	-	2	-	-	-	-
Total	25	21	3	12	5	1	4	-

* npa (not proceeded against) **not named for legal reasons

Restraint and confiscation

During the year 27 restraint orders were obtained for SFO cases and five for MLA cases. By the close of the year a total of £201 million of suspects' assets were under

restraint. After successful convictions in eight trials, 11 orders for confiscation of assets were made, amounting to over £5 million.

Fig. 3

Name	Case name	Date of Order	£
Paul Flint	Legacies	9 May 06	1
Nicholas Furr	Legacies	13 Jun 06	38,027
William Hurley	Global Wildlife Trust	10 Apr 06	50,000
Peter Nicol	Euro Capital Asset Management	23 May 06	120,000
Andrew Farrow	Abdallah Ali Jammal	13 Sep 06	55,957
Philip Gray	Ironfirm/Mars	13 Dec 06	627,170
<i>A defendant</i>	<i>(see note)</i>	2 Mar 07	55,000
<i>A defendant</i>	<i>(see note)</i>	2 Mar 07	50,000
Michael Summers	Eryl Management	15 Mar 07	4,000,000
Paul Newton	Preston Whiteside	16 Mar 07	16,000
Mathew Walker	Preston Whiteside	16 Mar 07	10,400
Total			5,022,555

Note: this case cannot be identified for legal reasons

By the close of the year a total of £201 million of suspects' assets were under restraint

Sentencing

All 15 defendants convicted this year received custodial sentences (14 immediately and one after a successful prosecution appeal saw a conditional discharge overturned as unduly lenient). Sentences ranged from eight months

to eight years. Seven of the defendants were also disqualified from acting as company directors. Eight confiscation orders were made in relation to this year's convictions (with one more yet to be determined).

Fig. 4

	04/05	05/06	06/07
Defendants convicted	37	13	15
<i>Custody immediate</i>	29	12	14
<i>Custody on appeal</i>	–	–	1
<i>Custody suspended</i>	3	1	–
<i>Fined</i>	2	–	–
<i>Community service order</i>	3	–	–
Number of:			
– disqualifications as a director	15	4	7
– confiscation orders	17	9	8

Progress of proceedings underway

During the report year five cases were transferred or sent to the Crown Court, three of which have either had, or had scheduled, preparatory hearings. The average duration between the opening of an investigation (ie, case acceptance) to transfer to the Crown Court, and then from transfer (or send) to

preparatory hearing, are given in the table below.

These cases, together with cases transferred or sent in previous years and which are still outstanding, are listed in proceedings underway starting on page 20.



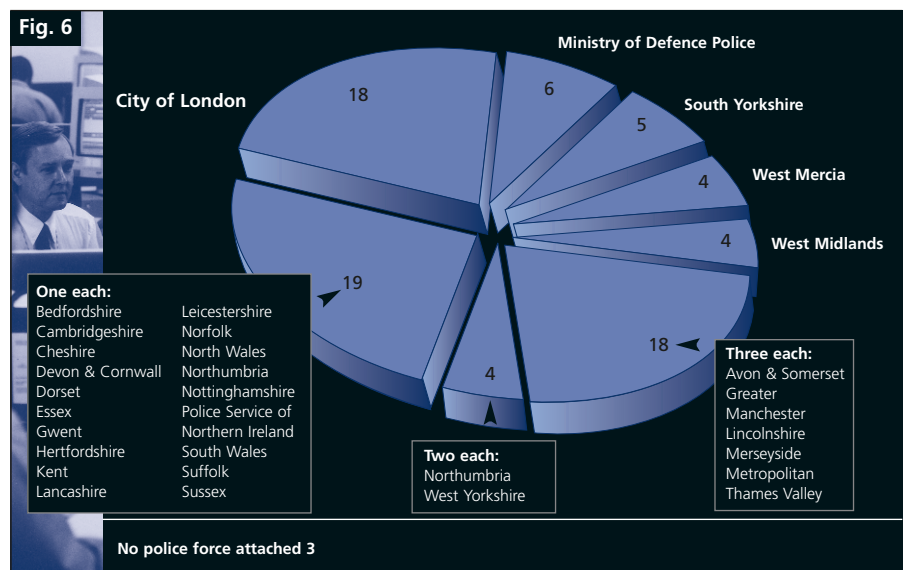
Fig. 5

	04/05	05/06	06/07
Cases transferred to the Crown Court	7	5	5
(of which) preparatory hearings arranged	6	3	3
Preparatory hearings to be arranged	1	2	2
Average duration (in months)			
Case acceptance to transfer/send (5 cases)	30½	45	56¼
Transfer to preparatory hearing (3 cases)	4½	2	7¼

Geographic distribution of cases

Officers from the police services in England, Wales and Northern Ireland work with us on most of our investigations, or provide temporary resources to cover specific operational needs. During the year we worked on 81 cases either investigating them or conducting proceedings underway in the Crown Court. In 78 of these cases police

officers participated in the investigation. The City of London Police is involved in an increasing number of our cases, even when they are located outside its jurisdiction. Of the 18 cases involving the City police (compared with 12 in the previous year), six were in its capacity as lead force in London and the south east.



Under mutual legal assistance arrangements we received 53 new requests from 24 overseas jurisdictions

Mutual legal assistance (MLA)

Under mutual legal assistance arrangements we received 53 new requests from 24 overseas jurisdictions to use our investigative resources and powers in order to obtain information in the UK for overseas investigations. Thirteen of the 24 jurisdictions were in Europe: namely Austria, Germany, Italy, Slovakia, France, Norway, Poland, Belgium, Netherlands, Latvia, Switzerland,

Use of statutory powers

The purpose of notices issued under Section 2 of the Criminal Justice Act 1987 is to obtain information either by interview or acquisition

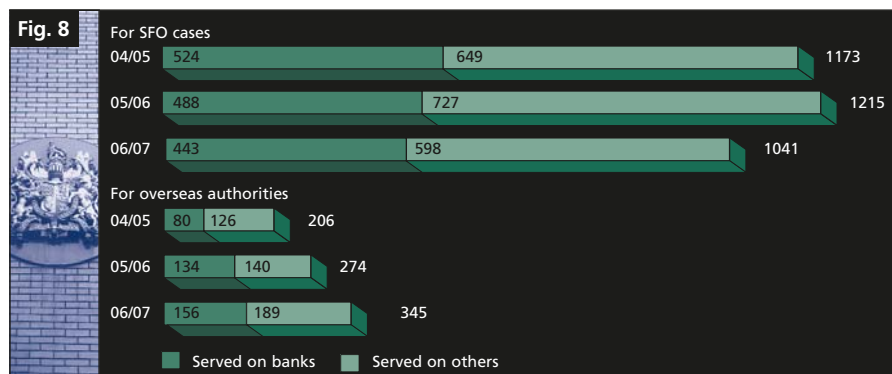
of documents, or sometimes both. As figure seven shows, during the year 1,041 orders were issued for SFO investigations.



Recipients of Section 2 notices

Of the 1,386 Section 2 notices issued during the year, both for SFO cases and mutual legal assistance (MLA) requests from overseas,

banks received around 43% of them and the remainder were served on corporate bodies and individuals.



Luxembourg and Jersey. The others were: Israel, South Africa, Zambia, India, Pakistan, Costa Rica, USA, Canada, Malaysia, Australia, and Iran.

Having executed an underlying original request, we also accepted 50 supplementary requests. With 89 requests dealt with completely, 71 either part-completed or still to be acted upon, and with an increase in the

total number of Section 2 notices for incoming MLA enquiries (see figure nine, below), these figures represent a sizeable increase in our activities under MLA international co-operation. Enquiries undertaken in this way for foreign authorities represent cases being investigated in and by foreign jurisdictions with a combined sum at risk of over £27½ billion.

	04/05	05/06	06/07
Number of countries assisted	31	23	24
<i>Requests:</i>			
New referrals received	35	41	53
Still under consideration at year-end	4	1	-
<i>Accepted cases:</i>			
Enquires active at year-start	44	51	57
New referrals accepted	30	40	53
Supplementary acceptances	41	40	50
Completed during year	66	74	89
Part completed/not closed by year-end	51	57	71
Section 2 notices issued for MLA	206	274	345
Search warrants executed	8	-	7

4

CASES AND PROCEEDINGS

Cases completed

Completed cases are those that have had a judicial conclusion to the charges brought against the defendant(s). In some cases there may be matters outstanding such as confiscation or an appeal.

Brief summaries of completed cases are provided below. The outcomes have generally already been announced by press release as they occurred (assuming no legal restriction applied). Press releases can be examined at www.sfo.gov.uk (select 'news') or by contacting our press office (tel. 020 7239 7004/7190/7132; email press.office@sfo.gsi.gov.uk).

Case study

Each year we feature one case in order to illustrate in more detail the life of an SFO investigation and the subsequent prosecution. This year that case is Izodia plc. An extended study of this £34 million theft begins on page 22. It draws on the experiences and insights of

the various specialists who made up the SFO case team – not only the SFO's own investigators, lawyers and support staff but also officers from Thames Valley Police and the SFO's lead counsel, Jonathan Caplan QC, along with his junior at the time, Amanda Pinto – as they recall the key issues, challenges and decisions that shaped the case and its successful outcome.

Proceedings underway

These are cases in which, as at 4 April 2007, a suspect has been charged and the trial is either yet to open, or is in progress or the sentencing hearing has yet to take place. Proceedings underway are subject to *sub-judice* considerations which mean that only limited information can be provided.

Developments from 4 April 2007 up to the final drafting of this report have been included so as to provide the reader with the most up-to-date information possible.

Publication restrictions

In some cases a court order or other legal constraint may temporarily prohibit publication of certain details (of a conviction, the identity of a defendant, or some other aspect of the case) so as not to prejudice any subsequent proceedings. Where such constraints apply details of the case have been excluded from this report.

Cases under investigation

This report does not list cases under investigation where no-one has been charged. Not every case investigated necessarily results in proceedings being taken by the SFO. Also there are sound reasons for confidentiality including the duty not to cause undue or unnecessary reputational damage or financial risk to individuals, companies or institutions. Some of our investigations are public knowledge; many are not. Only where we believe that it is in the public interest to reveal the existence of an investigation, or where there are stock market transparency considerations, will we announce that fact.



Completed cases

The key to the case entries is as follows:

- (a) Case name
- (b) Defendant(s)
- (c) Court where the trial was heard and judge presiding
- (d) Date of judgement or sentencing
- (e) Principal allegation
- (f) Police force supporting the investigation

Fraudulent will and probate service

- (a) Legacies (Wills & Probate Services) Ltd
- (b) Barry Williamson, Nicholas Furr and Paul Flint
- (c) Southwark Crown Court, HHJ Wadsworth
- (d) 1 July 2006
- (e) Fraudulent trading
- (f) Essex Police

Legacies (Wills & Probate Services) Ltd was set up in Brentwood Essex in 1991 by Paul Flint, Nicholas Furr and Barry Williamson. Over the ensuing five years the beneficiaries of estates over which the firm had been given power of attorney were defrauded, resulting in the embezzlement of over £5 million from about 230 client accounts.

A petition to wind up Legacies (Wills & Probate Services) Ltd followed an investigation by the DTI in May 2002. After referral to the SFO, a criminal investigation began on 20 May 2002. In March 2005 the defendants were charged with fraudulent trading during the period April 1996 to March 2002.

Flint and Furr pleaded guilty and were sentenced on 6 July 2006 to four years and six months and to three years and nine months respectively. A verdict could not be reached on Williamson and, following a re-trial, he was acquitted on 22 November 2006. On appeal Furr's sentence was reduced to two years and six months.

£34 million theft

- (a) Izodia plc
- (b) Gerald Smith, Peter Catto and Jarlath Vahey

- (c) Cambridge Crown Court, HHJ Bathurst-Norman

- (d) 22 September 2006
- (e) Theft and false accounting
- (f) Thames Valley Police

Dr. Gerald Smith was sentenced on 11 September 2006 to a total of eight years' imprisonment for misappropriating £34 million from Izodia plc, a one time 'dot-com' boom company trading in computer software. In 2002 he used his Jersey-based property business, the Orb Group, to buy a 29% stake in Izodia plc before proceeding to steal the company's cash assets. The SFO investigation opened in December 2002 and Smith was charged with theft and false accounting in February 2005.

On 24 April 2006 Smith pleaded guilty to ten counts of theft and one of false accounting. He was sentenced to four years' imprisonment for each of three theft counts (all to run concurrently) and then another four years' (concurrent) for each of the remaining counts, the two four-year sentences to run consecutively. He was also disqualified from acting as a company director for 15 years. The SFO has pursued restraint and confiscation of assets.

Charges against the two other defendants, Jarlath Vahey and Peter Catto, both of whom pleaded not guilty, were left to lie on the file.

(Izodia plc is featured as a case study starting on page 22.)

Conclusion of Mars corruption case

- (a) Ironfirm Ltd
- (b) Philip Gray
- (c) Reading Crown Court, HHJ Zoe Smith
- (d) 11 August 2006
- (e) Conspiracy to corrupt and defraud
- (f) Thames Valley Police

Philip Gray was the remaining defendant in a case involving bribery and the provision of other inducements for maintenance contracts at Mars UK Ltd. He had a responsibility at Mars for procuring maintenance services. In this case he authorised the payment of

inflated and fictitious invoices submitted by Ironfirm Ltd (trading as Excel Engineering).

In November 2004, he was charged along with four others (including former Excel Engineering directors) with conspiring to corrupt and to defraud. The resulting trial in 2005 secured four convictions but no verdict was reached on Gray. He was re-tried in July 2006 and found guilty of accepting nearly £680,000 in corrupt payments to show favour to the supplier over a ten-year period. He was convicted on 18 July 2006 and sentenced on 11 August to three years' imprisonment for conspiracy to corrupt and four years' for conspiracy to defraud to run concurrently. On 13 December that year a confiscation order of £627,170 was made against him. Compensation was also ordered in favour of Mars UK Ltd.

(Details of the first trial were published in the 2005/06 annual report.)

US\$4.3 million dollar high-yield investment fraud

- (a) Eryl Management Ltd
- (b) Michael Summers, Bruce Mead and Mary Mills
- (c) Bristol Crown Court, HHJ Darwell-Smith
- (d) 28 April 2006
- (e) Obtaining money through deception
- (f) Devon and Cornwall Constabulary

Michael Summers masterminded a high-yield investment scheme which deceived his clients of US\$4.3 million. The scheme was called Secure Investment Programme Agreements. During its operation (1997-2004) investors in the UK deposited more than £11 million on promises of a staggering rate of return (as much as 60%). The money was never invested by Summers and the scheme generated not a penny of its own profits. Clients who received any return at all on their investment did so only out of the monies paid into the scheme by later investors. This kind of operation is commonly known as a 'Ponzi scheme'.

In August 2000 the Devon and Cornwall

Constabulary and the SFO commenced a joint investigation. Summers, along with Mary Mills and Bruce Mead, was charged in spring 2004. Both Mead and Mills were acquitted on 7 April 2006 after pleading not guilty to 27 counts of a conspiracy to defraud. Summers was sentenced on 28 April 2006 to four years' imprisonment after pleading guilty to 33 counts of obtaining money transfers by deception. In addition Summers was ordered to pay a £4 million confiscation order or serve six extra years.

Facilitating money laundering

- (a) Abdallah Ali Jammal
- (b) Andrew Farrow and Linda Jammal
- (c) Blackfriars Crown Court, HHJ Samuels
Court of Appeal, Lord Justice Latham,
Mr Justice Gloster and Mrs Justice Dobbs
- (d) 26 April 2006 (Crown Court) and
2 August 2006 (Court of Appeal)
- (e) Money laundering
- (f) West Mercia Constabulary

Andrew Farrow was given a two-year conditional discharge on 26 April 2006 after pleading guilty to a money laundering offence in which he permitted his business bank accounts to be used to help another person retain the benefits of criminal conduct. On appeal by the prosecution to the High Court, on 2 August 2006, the sentence was replaced by 18 months' imprisonment and disqualification from acting as a company director for five years. At a separate hearing on 13 September 2006 he was ordered by HHJ Pillay to pay around £56,000 compensation within 12 months or serve a further 18 months.

The case against Farrow arose from an investigation into complaints that Worcester-based bank accounts were being used by Abdallah Ali Jammal to launder around £4.5 million of advance fees defrauded from a number of victims in several countries. Jammal left the jurisdiction before proceedings commenced. Linda Jammal was charged along with Farrow but the case

against her was dismissed in December 2005.

Fraud at insurance brokerage

- (a) Preston Whiteside Ltd
- (b) Paul Newton and Mathew Walker
- (c) Sheffield Crown Court, HHJ Murphy
- (d) 16 March 2007
- (e) Fraudulent trading
- (f) South Yorkshire Police and the Police
Service of Northern Ireland

Paul Newton and Mathew Walker were sentenced on 16 March 2007 to 15 months' and eight months' imprisonment respectively after admitting to fraudulent trading. In addition, each was disqualified from acting as a company director for seven years.

The defendants operated an insurance brokerage, Preston Whiteside Ltd, in Doncaster, accepting premiums from small businesses without arranging liability insurance cover. As part of the deception they would, on occasion, issue forged insurance certificates. Many of their clients were in Northern Ireland where, at this time (2002/03), businesses were finding it difficult to secure insurance cover. The investigation opened in April 2003 and the defendants were charged in January 2006. They both pleaded guilty to one count of fraudulent trading contrary to section 458 of the Companies Act 1985.

Training fraud in South Yorkshire

- (a) Barnsley College Holdings Ltd
- (b) Stuart Spacey, David Eade
- (c) Sheffield Crown Court, HHJ Robertshaw
- (d) 12 February 2007
- (e) Conspiracy to defraud
- (f) South Yorkshire Constabulary

Stuart Spacey was sentenced on 12 February 2007 to 18 months' imprisonment for his part in conspiring to defraud Progress Training Ltd (a subsidiary of Barnsley College Holdings Ltd). He was engaged as a consultant by Progress Training having formerly been the company secretary of Barnsley College as well as being one of its lecturers. David Eade was

the college principal.

Progress Training was contracted to provide training courses on behalf of Barnsley College but the business went into liquidation in October 2001. A complaint made to the Learning and Skills Council resulted in a criminal investigation. The defendants were charged in 2005 but by March 2006 Eade's medical condition resulted in the charges against him being left on the file. Six months later Spacey pleaded guilty, admitting that he conspired with Eade to defraud the business of around £900,000. Spacey had been involved in the setting-up of a number of businesses that were used illegally to obtain funds from Progress Training Ltd.

At a confiscation hearing on 19 April 2007 Spacey was ordered to pay £470,053 within three months or serve a further four years in prison.

Commercial loans advance fee fraud

- (a) Corporate Advances
- (b) George Steen
- (c) Southwark Crown Court, HHJ Robbins
- (d) 20 March 2007
- (e) Obtaining a money transfer by deception;
attempting to obtain a money transfer by
deception.
- (f) Sussex Police

George Steen committed these crimes in 2003 whilst he was already standing trial at Southwark Crown Court for a similar first offence, for which he was subsequently convicted and sentenced to six years' imprisonment. (A full case study can be found in the SFO's 2003/04 annual report.) After being found guilty of the later offences on 20 March 2007, Steen was sentenced to a further 18 months on each count to run consecutively to each other.

Steen promoted himself as a commercial loans facilitator, requiring clients to pay an advance loan application fee for loan facilities which never existed. Once Steen's victims had paid an up-front fee they would receive a loan contract entitling them to proceed

further with their application but only on the basis of clauses that were impossible for them to satisfy.

In this case Steen defrauded a US businessman by taking a \$25,000 due diligence fee as part of an application for a \$6 million loan; the victim also applied for a further loan of \$82 million and Steen then tried to extract a further \$40,000 from him. But when the victim became dissatisfied with progress he pursued Steen to his office in Darlington, only to discover that Steen was not only standing trial in London for a similar fraud but that he had also absconded to the Philippines in an attempt to escape imprisonment. Steen was subsequently returned from the Philippines to serve his first sentence and was tried for the later offence whilst he was a serving prisoner. In a confiscation hearing Steen was ordered to pay more than £1 million in compensation, of which more than £900,000 has already been paid. He is due to pay another £500,000 in June 2007 or else serve an extra eight years in prison.

Three convicted

This completed case cannot be identified at this time because of related uncompleted proceedings in another case. Three defendants have been convicted and sentenced, one was acquitted and charges against another were left on the file.

False accounts to dupe trade finance firms

- (a) Cosgrove Packaging Ltd
- (b) Edward Cosgrove
- (c) Southwark Crown Court, HHJ Rivlin
- (d) 2 November 2006
- (e) False accounting, attempting to obtain a money transfer by deception
- (f) North Wales Police

Edward Cosgrove's business, Cosgrove Packaging Ltd, made video and DVD cases. The company moved from Manchester to Deeside (North Wales) in February 2003 with the aid of a Welsh Assembly development

grant of £390,000. However, relocation did not improve the company's financial position and so, in order to paint a rosier picture for trade finance companies, Cosgrove began to raise false invoices and despatch notes to suggest that the business was still healthy. His motive was to see the company through what he anticipated would be a short-term cash flow crisis.

In April 2003 Cosgrove obtained approval for another grant (£200,000) from the Welsh Assembly having claimed that the company was trading profitably even though in reality it was now dependent on false accounting to maintain its relationship with the finance companies.

Before the second grant was paid the business was put into receivership and the receivers uncovered the truth, reported it to North Wales Police and in May 2005 an SFO investigation began. Cosgrove moved to Germany and refused to return to the United Kingdom to be interviewed. A European arrest warrant was issued and he was returned to the UK to be charged in June 2006. In October 2006 he pleaded guilty and was sentenced to four years' imprisonment on each of seven counts of false accounting (to run concurrently) and three years on the one count of attempting to obtain a money transfer by deception (also to run concurrently).

Hiding events at TransTec

- (a) TransTec plc
- (b) Richard Carr and William Jeffrey
- (c) Birmingham Crown Court, HHJ Stanley
- (d) 7 April 2006
- (e) Publishing false statements and misleading auditors
- (f) West Midlands Police

TransTec was the holding company for a group of medium-sized engineering companies. One part of the group supplied components to the automotive industry, in particular to the Ford Motor Company. In 1993 TransTec won a contract to supply a new aluminum cylinder head for the Ford Explorer.

Due to the scale of the project a new plant was established in Northern Ireland but the project was plagued with problems, particularly in connection with the use of robotised machinery. Service failures gave rise, in 1997, to a claim by Ford for US\$35.9 million in compensation. A settlement was reached which involved TransTec paying Ford US\$18 million over three years.

Neither Ford's claim nor the settlement was reported to the TransTec board or the auditors and TransTec's solicitors were instructed not to include the US\$18 million in the claim against the robot supplier. At no time between 1996 and 1999 were the payments disclosed in financial statements.

Following a referral by the Department of Trade and Industry in May 2002 a joint investigation was undertaken by the SFO and West Midlands Police. William Jeffrey (finance director of TransTec) and Richard Carr (chief executive) were both charged in October 2004. Carr was tried and in March 2006 was acquitted. Jeffrey admitted that he had published false accounts and misled auditors and he was sentenced on 7 April 2006 to nine months' imprisonment, suspended for twelve months.

Landfill tax case (Paradise Wildlife Park)

In July 2005 Andrew Watts, William Hurley and Stephen Sampson were convicted at Wood Green Crown Court of conspiracy to steal and conspiracy to falsify documents. All three appealed against conviction. On 25 May 2007 the Court of Appeal ruled that the trial judge did not properly equip the jury to discharge their task and quashed those convictions. The SFO has informed the Crown Court that it is not in the public interest to pursue a retrial or proceed with a separate trial of the defendants and two other persons. Consequently verdicts of not guilty have been entered. Hurley's convictions for acting as a director whilst bankrupt remain.

Proceedings underway

As at 4 April 2007

Note:

(i) Period covered: This section lists the cases where proceedings are still underway at the end of the reporting year (4 April 2007). *Developments in proceedings that post-date the year-end are appended in italics to provide as up-to-date a picture as possible at the time of publication.*

(ii) Omission of details: Where proceedings are indicated in non-identifiable terms (eg, names and details not given) it is because publication restrictions have been imposed under the Contempt of Court Act 1981 or other legislation.

(iii) Police service: The supporting police service, or other assisting investigating authority, is named in brackets under each summary.

R v Virendra Rastogi, Anand Jain, Jayeshkumar Patel and Gautam Majumdar

Three defendants (Rastogi, Jain and Patel) were charged in October 2005, and one (Majumdar) in May 2006, with conspiracy to defraud. By making false representations they induced lending institutions to provide finance totalling over US\$400 million to RBG Resources plc (RBG) a metal trading company (also known as **Allied Deals plc**). Rastogi, Jain and Majumdar were directors of RBG, whilst Patel was a senior manager and vice-president of Structured Finance. The trial is scheduled for 3 September 2007 at Southwark Crown Court.

(Investigated with City of London Police)

R v Peter Stott and Peter Bradley

The first defendant, Stott, appeared at Liverpool Magistrates' Court in May 2006 charged with false accounting. Bradley appeared in November 2006, similarly charged, following his return to the UK. The case relates to **Alta Gas plc**, a company selling bottled gas that was owned by Bradley

but which was placed in administration in 2001. The trial is scheduled for 26 March 2008 at Liverpool Crown Court.

(Investigated with Merseyside Police)

R v Jonathan Shulton, James Cahill and Gregory Life

The defendants appeared at City of London Magistrates' Court in July 2006 charged with conspiracy to defraud and fraudulent trading through their company **Bluethorne Communications Ltd**, which sold mobile phone air-time contracts. In addition, Shulton is charged with theft and dishonestly retaining wrongful credit. The trial is scheduled for 1 October 2007 at Southwark Crown Court.

(Investigated with Hertfordshire Constabulary)

R v Don Ashford, Gary Stewart, Ian Stewart, Ramesh Sthankiya and Paul Syres

The defendants appeared at Birmingham Magistrates' Court in January 2005 charged with conspiring to defraud finance companies in connection with **Ciro Cittero Menswear plc**.

The defendants were successful in an abuse of process application and the case was dismissed on 18 April 2007 at Birmingham Crown Court.

(Investigated with West Midlands Police)

R v Shinder Gangar and Alan White

The defendants appeared before Leicester magistrates in October 2005 on charges of conspiring to defraud clients of Vavassuer Corporation, **Dobb White & Co** and other investors in a suspected fraudulent high-yield investment scheme. The defendants are also charged with conspiracy to corrupt (see below). The trial date has been set for 3 July 2007 at Birmingham Crown Court.

(Investigated with Leicestershire Constabulary)

R v Nigel Heath

Nigel Heath appeared before Leicester magistrates on 8 May 2006 charged with conspiring with Shinder Gangar and Alan

White to corrupt a US government official in an attempt to stop the prosecution of an associate in the US for operating an alleged fraudulent investment scheme. This case arose out of the Dobb White & Co investigation (above). A trial date is to be fixed after the trial of Gangar and White.

(Investigated with Leicestershire Constabulary)

R v Michael Bird, Mark Grainger, Anthony Prudhoe and Linda Straughan

This case concerns the dishonest operation of invoice discounting facilities through the **Engineering With Excellence** group of companies run by Prudhoe. He was deported from Jordan to the UK in July 2006 and he and his three co-defendants were charged in that same month. On 9 March 2007 Prudhoe and Bird pleaded guilty to all counts of fraudulent trading on the indictment.

The trial of Grainger and Straughan began on 16 April 2007 at Leeds Crown Court and on 16 May they were found guilty. On 17 May the defendants were sentenced to two years, two years and three months, seven years and two years respectively.

(Investigated with Northumbria Police)

R v Paul Appleby Walker, John Brown, Maria Brown, Adam Hauxwell-Smith, Leisa Hauxwell-Smith and Paul Hoult

This case is one of alleged corruption and conspiracy to defraud **IKEA UK Ltd** through the submission of false or inflated invoices for goods supplied. The defendants were charged in July 2004. The trial is scheduled for 3 September 2007 at Birmingham Crown Court.

(Investigated with Nottinghamshire Police)

R v Jared Brook, Lincoln Fraser, Nicholas Fraser, William Godley and Robert Raven

The defendants, all former directors of companies in the **Imperial Consolidated Group** (ICG), were charged in June 2006 with conspiracy to defraud. ICG was a high-yield investments business that collapsed in 2002 with a shortfall of over £100 million in

its UK operation. A trial date has been set for 8 January 2008.

(Investigated with Lincolnshire Police)

R v Michael Bright, Philip Condon and Dennis Lomas

The defendants appeared at City of London Magistrates' Court in December 2005 on charges of conspiracy to defraud

Independent Insurance plc which went into liquidation in June 2001 and of which all three men were directors. The trial opened at Southwark Crown Court on 30 May 2007.

(Investigated with City of London Police)

R v Denis O'Neill and others (Operation Holbein)

In April 2006, the SFO charged nine individuals and five companies with conspiracy to defraud the Department of Health in connection with alleged price fixing of certain generic drugs, warfarin (and the related branded drug, Marevan) and penicillin-based antibiotics. This prosecution, which is expected to lead to two separate trials next year, is the first criminal prosecution for conspiracy to defraud ever to be brought for alleged dishonest price fixing.

The individuals were (some still are) executives of drug supply companies. They are Denis O'Neill, John Clark, Jonathan Close, Nicholas Foster, Luma Auchi, Michael Sparrow, Anil Sharma, Ajit Patel and Kirti Patel.

The companies are Kent Pharmaceuticals Ltd, Norton Healthcare Ltd, Generics (UK) Ltd, Ranbaxy (UK) Ltd and Goldshield Group plc. A sixth company under investigation, Regent-GM Laboratories Ltd, is in liquidation and therefore not charged. The trial is to be heard at Southwark Crown Court on the 21 January 2008.

(Investigated with Metropolitan Police)

R v Malcolm Bradley, Christopher Darke, Paul De Rome, Martin Shaughnessy, Frederick Taylor and Ian Whittock

Investors were led to believe that their money

was being invested in a secure high yield bank instrument trading programme (backed by insurance and bank guarantees issued by the **Panacea Bank of Nauru** and the MFC Bank of Nauru). Instead the money was used to finance an unconventional gold ore processing venture called Anglo American Metals Inc., based in Texas, which ultimately produced no gold. The insurance and bank guarantees either did not exist or were worthless. The defendants were charged on dates in January and April 2006 with conspiracy to defraud and other offences. A trial is due at Liverpool Crown Court in September 2008.

(Investigated with Cheshire Constabulary)

R v Asil Nadir

Asil Nadir was charged in December 1990 with 66 counts of theft from **Polly Peck International plc**. In 1993 he left the jurisdiction for northern Cyprus from whence he cannot be extradited. In 2000 he made an application to have the indictment stayed on the grounds that to proceed would be an abuse of process. Mr Justice Potts held, on 30 January 2001, that Nadir's application was in itself an abuse whilst he remained abroad and refused to submit to the jurisdiction of the court.

(Investigated with Metropolitan Police)

R v Raymond Nevitt, Jeremy Greene and Kay Boardman

Nevitt and Greene were the managing director and financial director of **Ravelle Ltd**. Kay Boardman was the managing director of Ravelle Printers Ltd trading as Just Printers. Nevitt and Green are charged with five counts of fraudulent trading. Boardman was charged with two counts of fraudulent trading. On 4 September 2006 Boardman pleaded guilty to one count of fraudulent trading. The remaining count against her was left on file. The trial of Nevitt and Greene is listed for 8 January 2008 at Manchester Crown Court.

(Investigated with Greater Manchester Police)

R v Stephanie Callebaut, Richard Gunter, Haroon Khatab, Shameen Suleman and Donald Thomas

Vintage Wines of St Albans is alleged to have operated a fraudulent alcohol investment scheme involving US clients and investments amounting to US\$1.7 million. The defendants were charged in March 2007 with conspiracy to defraud. The case has been sent from Westminster Magistrates' Court to Southwark Crown Court. A trial date has not yet been fixed.

(No police service attached)

R v five defendants

Five persons were charged in March 2007 with conspiracy to defraud. Details cannot be published at this stage for legal reasons.

Since the year-end the following proceedings have been instituted:

R v Kevin Foster

The defendant, who operated an investment business, appeared before Sittingbourne magistrates on 11 May 2007 charged with offences under the Financial Services and Markets Act and the Theft Act. The case is to be transferred to the crown court.

IZODIA PLC: A CASE STUDY

ANATOMY OF A FRAUD CASE
IZODIA'S MISSING MILLIONS

The events in the summer of 2002 that led the SFO and two police forces to Izodia plc's door can easily be made to seem, on the face of it, like a bumpy but otherwise fairly run-of-the-mill tale of serial entrepreneurship and corporate manoeuvring. Even directors and corporate officers who, though blameless, found themselves at the very centre of events could not really be sure of the truth until a full SFO investigation revealed two separate thefts totalling £34 million. No wonder; they were in the clutches of a man whose record as a convicted fraudster stretched back almost a decade.

A superficial history

Izodia plc was born in the dot-com boom but began life with another name. Infobank Multimedia Ltd was established in 1993 to develop e-commerce software. In keeping with the times the firm's progress was little short of meteoric: 1994 saw listing on the alternative investment market (AIM); in 1999 there was the move up to a full listing on the London stock exchange (LSE). Eventually Infobank's stock market valuation reached a peak of £2.4 billion.

But just as staff were moving into their new offices in early 2000, a new and much more expensive version of the company's principal product, a supply chain management and e-procurement tool called *InTrade*, was failing spectacularly. By the time Infobank changed its name to Izodia plc in June 2001 the share price had fallen from £14 to £1.50. Another year and Izodia was just a shell with a skeleton staff, £40 million or so in the bank and a business discontinued to protect the cash.

The institutional investors (who owned about 70%) wanted Izodia wound up and the cash returned to shareholders; the directors clung to the hope that the company's fortunes might still be revived. But at 59p the share price valued Izodia at significantly less than its cash, making it a tempting target for predators of all sorts. In March 2002 Izodia's

brokers identified some unusually large share movements and by the end of April it seemed that a 'concert party' of three companies – Corporate Synergy plc, Mountcashel plc and Stomp Limited – had built up a 25% stake.

On 9 May, Edward Vandyk (Corporate Synergy) and Chris Roberts (Mountcashel) joined Izodia's board, but within a few weeks they appeared no longer to think Izodia the bargain it once was. The cash was shrinking fast and there were two substantial liabilities; an inflexible lease, costing more than £2 million a year with 18 years to run, and a £5 million legal action in which Izodia was accused of breach of contract. In the final days of July Stomp Ltd bought out Vandyk and Roberts but was then itself swallowed up by General Equity, a subsidiary of Orb arl (*avec responsabilité limitée*), a seemingly vast Jersey-based holding company.

This was not Orb's first involvement at Izodia. The board had already agreed that Mitre Holdings (another Orb subsidiary) would take the burdensome lease off Izodia's hands for a one-off payment of £5 million. Now the bigger picture emerged: Orb's principal, a Dr. Gerald Smith, wanted to turn Izodia into a hotelier by 'reversing' in a £600 million portfolio of properties recently bought from Thistle Hotels.

Izodia's two long-time non-executive directors, Pat Chapman-Pincher and Ross Peters, were replaced by Orb nominees, Jar Vahey and Peter Catto. A new board also needed a new leader and so Sir Anthony Jolliffe, a highly respected City figure and a former Lord Mayor of London, became Izodia's chairman at a hastily arranged board meeting on 2 August. The same meeting approved a proposal by Chris Roberts to transfer £27.3 million from Izodia's account at the Bank of Scotland in Reading to a new offshore account held at the Royal Bank of Scotland International (RBSI) in Jersey, where it would earn 4½% – half a percentage point above the best mainland rates. (The idea had come to him from a company called Lynch Talbot, the treasury arm of Orb.)



The first suspicions

Unfortunately, once the Izodia money was transferred to Jersey, the special 'pooling' arrangements necessary to secure the extra slice of interest also made it difficult for Izodia's head of finance, Amanda Fox, to get hold of bank statements and deposit certificates. After several weeks some deposit certificates did finally materialise, but by then Sir Anthony's concerns at the lack of proper boardroom oversight of Izodia's principal asset were so acute that he decided to press on with his plan to repatriate the cash so that the board could supervise it properly. On 30 September Sir Anthony asked his company secretary, Corin Maberly, to make the preliminary arrangements. It should have been a simple matter but a banking error – the Jersey bankers claimed Izodia had just £2.7 million on deposit rather than £27 million – resulted in Maberly being suspected of attempted theft. Accounts were frozen, including Orb's, and heads might well have rolled had the matter not been sorted out quickly when Smith flew Catto to Jersey at very short notice to meet worried senior banking staff. Soon the bankers were pacified – Maberly was leaving the company and his suspicious activities would be closely investigated by the Izodia board, they were told – and within 48 hours the accounts were unfrozen and normal business could resume.

Or so it seemed.

The Maberly/Catto dispute had worried RBSI executives deeply. To prove his point a beleaguered and confused Maberly had faxed the bank's own deposit confirmations to Jersey showing the £27 million on deposit. Bank staff instantly recognised the documents as forgeries. Even as RBSI was unfreezing Gerald Smith's corporate bank accounts it was launching its own investigation into the bank's entire relationship with Orb and its shadowy principal. What RBSI executives found was more than suspicious enough to

take to the Jersey police.

Across the English Channel, Izodia's chairman had already drafted his letter of resignation some days before the Maberly debacle. The rest of the Izodia board – now reduced to a pair of Orb nominees – was thwarting Jolliffe's every attempt to appoint new non-executive directors and so restore some proper governance and, of course, he was far from satisfied with assurances from Smith, Catto and Vahey that Izodia's money was truly secure.

The next board meeting was on 4 October. At a pre-meeting in the Ritz Smith promised Jolliffe that he would return all of Izodia's money within a fortnight. Now Jolliffe knew the truth – Smith had indeed misappropriated the Izodia cash. A little later, just minutes before the full board meeting, Smith drew Jolliffe to one side and tried to bribe him, saying: *"I desperately need your help just for today ... you just have to name your price for this"*. Presumably Smith realised almost immediately that his attempted

"Scrupulous attention to detail is immensely time-consuming, especially at this early stage, but it pays huge dividends later"



Philip Blakebrough, assistant director

corruption had failed because in the meeting itself he began by saying that he now owned 51% of Izodia (in fact he did not) and Jolliffe's services were no longer required. Jolliffe expressed his concerns to Smith about the fate of Izodia's money one last time, then he took them to the SFO.

A familiar face

Dr. Gerald Smith – 'former general practitioner turned serial entrepreneur', as the Financial Times called him in late 2002 – was no stranger to the SFO. As chief executive of the Farr construction group he had been prosecuted in 1993 for stealing £2 million from its pension fund. Smith had passed the money through a convoluted sequence of opaque transactions, through bank accounts in Geneva and Panama, before returning it to the company in a vain attempt to keep it afloat. He was given two years' imprisonment.

The Izodia investigators would find that the intervening decade had done nothing to dim Smith's appetite for webs of opaque, complex and multi-layered activity, but for now the first priority was to make sure that no evidence was lost. Simon Williams was appointed case controller, a case team assembled quickly and the planning and execution of searches given the highest priority.

Because English law requires SFO searches to be executed by police officers, it is one of a case controller's earliest tasks to decide which police service to ask for assistance. A deciding factor is typically the geographical location of the crime, but the matter is not so straightforward when the fraud has spanned more than one jurisdiction. Would it be Jersey or the mainland? In fact the Izodia theft really began when the Bank of Scotland, in Reading, was deceived into sending the company's money to Jersey, and so it fell clearly into the jurisdiction of Thames Valley Police. That said, the investigation remained in many respects a three-way effort throughout; led by the SFO and Thames



Kevin McDonald, principal financial investigator

Valley Police, but relying heavily on the support of the States of Jersey Police for off-shore investigations, searches and interviews.

Thames Valley Police has invested heavily in its fraud investigation capabilities in recent years. Once Detective Inspector Dave Edmondson, who leads the Economic Crime Unit, had agreed to accept the Izodia case, the SFO could draw on a dedicated, comparatively well-resourced police team experienced in dealing with major frauds, money laundering and asset seizures in the densely-packed commercial landscape of the M4 corridor. Even so, the Izodia case remains Thames Valley's highest value investigation to date.

The searches

At the very start of a serious fraud case no-one who has been close to the events is completely above suspicion, but nor are there sufficient resources to target everyone. "Initially almost every Izodia director, before

and after the transfer, and a host of other characters might reasonably have had some degree of suspicion attached to them," explains DI Edmondson. "But we can't search everywhere. We must focus on the locations and people that look potentially most fruitful and/or where evidence might be at the greatest risk. Given Sir Anthony Jolliffe's initial complaint and the RBSI reports about forged documents, as well as everything we already knew about Dr. Smith from his previous conviction, it was clear that he must be the focus of our immediate interest."

Early on 16 December 2002 Smith's principal residence in Jersey and his company offices in London and Jersey were all searched simultaneously.

In Jersey, Smith was at home. His wife, Gail Cochrane, seemed perfectly composed as she called to her husband: "Gerald. The police are here again." Smith complained to Detective Inspector Faudemer of the Jersey police that he was needlessly jeopardising

worldwide businesses by investigating nothing more than a properly-minuted inter-company loan, but he failed to produce any evidence to support his claim. As the search progressed gardeners arrived to work in the extensive grounds and workmen continued to install flat screen TVs in all of the bedrooms. There were very obvious signs of wealth everywhere. In one room a large number of paintings were stored, stacked against the walls like so many racked posters.

In London police officers and SFO investigators waited for staff to arrive at Orb's Mayfair offices. The SFO principal financial investigator Kevin McDonald, who worked on the case throughout, was there: *"Our intention is always to take only the material we need. We don't want to disrupt the continuing business. Even our IT specialists take only 'images' of hard drives and leave the machines themselves intact and in situ so that staff can continue to use them."*

As the afternoon wore on someone brought in a copy of the *Evening Standard*; the searches were already front page news.

Detective Constable Nick Bell also worked on the Izodia case from start to finish. He spent most of that first day sitting at Gerald Smith's desk picking carefully through the files. *"The SFO procedures were an eye-opener for many of us,"* he recalls. *"Very careful and methodical. The relevance of every item judged there and then. Bagging a massive amount of items and doing it at the scene. Operating to SFO procedures made it a long day – slow but very thorough. By the end we were confident we hadn't missed a thing."*

Back at Elm House seized material was registered and scanned into the SFO's document tracking system. *"Scrupulous attention to detail is immensely time-consuming, especially at this early stage, but it pays huge dividends later,"* says Philip Blakebrough, now an assistant director at the SFO but the Izodia case controller for most of the investigation phase. *"On the final day of a case we can quickly put our hands on a*



Left to right: DC Nick Bell, DS Phil Rudd and DI Dave Edmondson

"Initially almost every Izodia director, before and after the transfer, and a host of other characters might reasonably have had some degree of suspicion attached to them"

piece of evidence, along with everything else we know about it and every other document that might be linked to it, as easily as we could on the first."

While some investigators sifted, sorted and assessed the seized material, others began gathering from banks, advisors, directors and employees important documents that might not otherwise come to

them through the main searches. (Section 2 notices can be used to compel a source to provide evidence but they are used only where material is at risk or where the source wishes to be protected against accusations of breach of confidentiality.)

Nor was there any delay in starting to trace where Izodia's money might have gone. Depending on the jurisdictions involved, this

can be a trying and time-consuming job. Jersey uses a system similar to the mainland's Section 2 notices and these were used to gather information from Orb's bankers. Here too the SFO wanted to seize only what was likely to be useful. It also wanted to be sensitive to the bank's own continuing investigations so, with his case controller on hand to sort out any legal complications, Kevin McDonald spent day after day in a gloomy Jersey back office checking files for relevance to Izodia: "If you can see an original document in its original file, and you can flick through to see the connections with other documents and other files, you get a feel for relevance much more quickly than if you have to wait until you are back in London to leaf through a lever-arch file of photocopies or scan through electronic copies on-screen."

Offshore trusts

But not all offshore jurisdictions are as easy to work with as Jersey. Many require the SFO to make government-to-government requests for information and even then it can take a year or more for anything useful to be released.

An early success for the Izodia case team was the discovery in Lynch Talbot's Jersey offices of a pair of typed A4 sheets that pointed to Switzerland. SFO financial investigator Lillian Oscar was responsible for tracing the Izodia cash: "Once their meaning had been unlocked, these two documents told us a lot about how Smith and his associates did business – in particular how he had got control of Izodia. The first sheet showed how the purchase of Izodia shares – five blocks, the first as early as 4 April 2002 – had been paid for in part using money loaned by eight individuals. Together they had chipped in nearly £1.6 million. The second sheet listed a sequence of payments in the following August, three to individuals whose names also appeared on the first sheet and the rest to Swiss numbered accounts.

"Most of the names on the first sheet were long-time business associates of Smith's;

a secretive 'club' of wealthy individuals who helped fund Smith's business activities because they trusted him to make them even more money. When we first approached them some were far from keen to tell us the whole truth. Two had put up almost two-thirds of the £1.6 million. When we asked them about what looked very much like matching repayments to Swiss trusts they denied any knowledge. But we also knew that these two were doing everything they could to stop the Swiss bank providing all the



The Jersey offices of Lynch Talbot

information we'd asked for. It took several months for our letters of request to bear fruit but then we could confront them with what we knew, this time under Section 2, making it a serious offence not to answer our questions truthfully. They had wasted a lot of our time and they got a bit of a shock when they realised that we now knew that they had been lying to us for months."

The motive

Amongst the banking information investigators soon identified a clear and pressing motive for the crime. Smith was over-extended and by early 2002 he already knew that he would soon need a very substantial source of ready cash.

Smith visibly enjoyed the lifestyle of the successful businessman. His home in Jersey outshone even the governor's next door. Another in Surrey overlooked the fifth tee at Wentworth. Helicopters and executive jets whisked him to and fro. But this golden life was not as secure as it appeared. Kevin McDonald: "Smith had recently purchased 37 Thistle hotels using a £600 million loan from

Morgan Stanley. The interest charges were enormous and the cash-flow implications were about to start hurting Smith's other businesses just as he was introduced to Izodia. He paid a £200,000 finder's fee for the Izodia introduction; a measure of how relieved he must have been to discover all that idle cash."

Almost immediately Smith hatched a plan that would culminate in a 29.9% share in Izodia and effective control by the end of July 2002 at the latest. The timing was crucial.

"Superficially it appeared that Orb – in other words, Smith – became an Izodia shareholder when General Equity bought up Stomp at the end of July. But there was plenty of evidence from as early as April that Smith, Orb and Lynch Talbot had a hand, possibly even a controlling hand, in the concert party", says Kevin McDonald. "For a start Stomp bought its Izodia shares using money borrowed from Lynch Talbot. Documents from April showed that Vandyk's staff at Corporate Synergy were keeping Smith unusually well informed about boardroom moves at Izodia. And, most remarkably, on 9 May, the same day Vandyk and Roberts joined Izodia's board, ostensibly in their own right, Smith made Izodia CEO Martin Frost an extraordinary offer; an option to buy 1.5m Izodia shares at 30p with the promise that Lynch Talbot would buy them back within three years at a minimum of £1.30! This was a powerful demonstration of executive power and confidence at a time when Smith was supposed not yet to be a shareholder, never mind a director."

1 and 2 August

A watertight case would need to be able to establish clear lines of responsibility for the events surrounding the board meeting on 2 August which took the decision to send Izodia's cash to Jersey.

DC Bell: "Initially most of what we knew about the 2 August came from Jolliffe and the documents seized from Smith's companies. But Jolliffe's grasp was hazy

because he had attended only by telephone, and we soon realised that we could not trust the corporate records because our searches and interviews kept turning up alternative versions of everything."

In those first few crucial days of August so much had gone on behind the scenes that, at the time, only Smith could have known everything that there was to know. But now the case team was piecing it all together. *"The groundwork for the theft had been carefully laid the day before the board meeting,"* says DC Bell. *"On 1 August Smith wrote to RBSI Jersey 'to confirm' that Catto, Vahey and a Charles Helvert were directors of Izodia authorised to represent the company 'in all matters'. Meanwhile, Trevor Jones, group treasurer of Orb Estates plc, wrote to Gerald Gowans at RBSI in Jersey to open an account in Izodia's name and enclosing a bank mandate form with specimen signatures for Catto, Vahey and Helvert. Finally, Catto and Vahey also wrote to Gowans – signing as directors of Izodia – authorising access to the new Izodia account via Lynch Talbot's electronic banking system. Smith and Lynch Talbot would now be able to dip into Izodia's cash at will."*

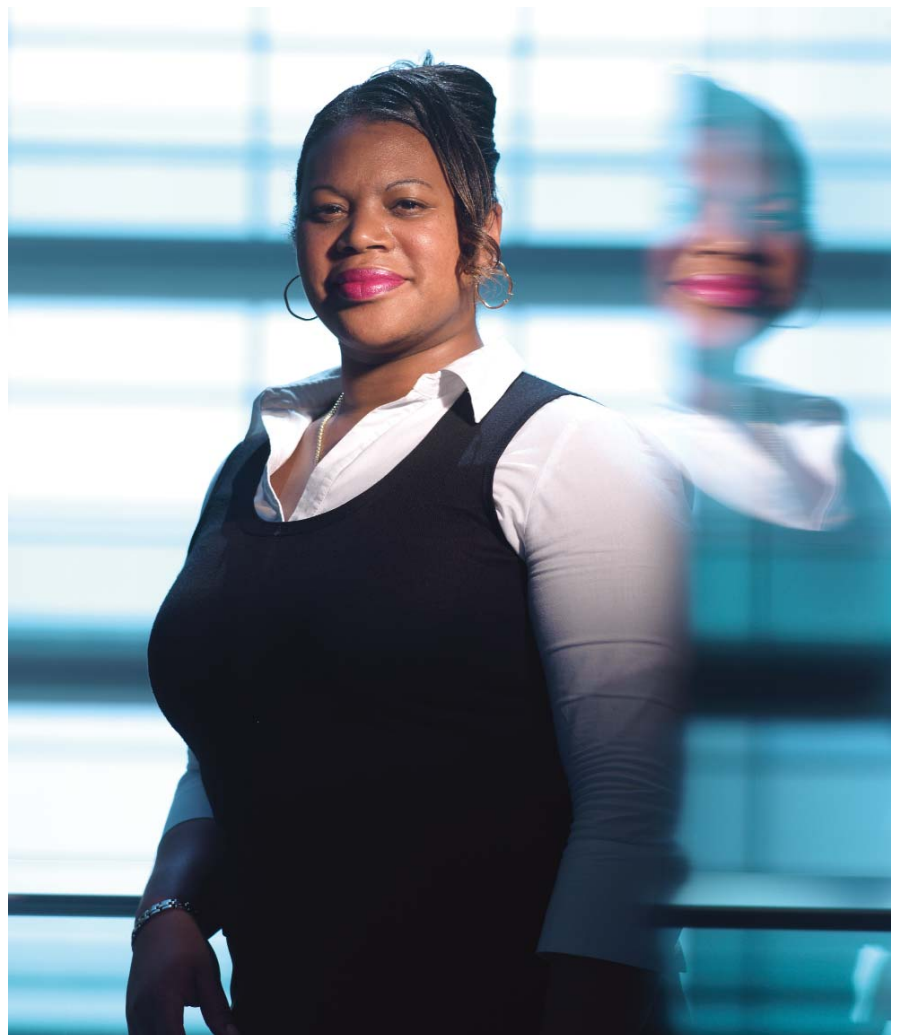
But Catto and Vahey had no power to sign Izodia correspondence – they weren't made directors until the next day, and Helvert would never be. Nor had they any right to grant anyone independent access to Izodia's RBSI account; when the board agreed to the transfer the next day it was on the understanding that the money remained securely under Izodia's sole and independent control. And nor had Jones, or anyone else at Orb, the authority to open a bank account on Izodia's behalf.

Clearly it had been someone's intention all along for Orb and Lynch Talbot to access Izodia's account at RBSI Jersey. But Smith's role remained worryingly elusive. His letter to RBSI had merely confirmed that Catto and Vahey had become Izodia directors. After all it was Jones who had opened the account that

received the stolen money, and Catto and Vahey who had improperly signed the access authorisation. Then there was the question of whether Smith had even been present at the meeting. At first it seemed not and yet it also seemed unthinkable that he would not have been present to ensure that everything went according to his plan. Kevin McDonald: *"In the minutes of the meeting there was no mention of Smith. Jolliffe, on the 'phone, had not heard him say a single word. But then we*

began to get hold of earlier versions of the minutes, retrieving them from PCs and the files of Izodia directors and advisors, and these were very different from the official Izodia record. The earliest version in particular not only mentioned Smith in attendance but also noted that Lynch Talbot had recommended the transfer. Of course Lynch Talbot was Smith. So there he was, as we expected he would be, pulling the strings at this crucial moment, but erased from the

"Altogether nearly £2.3 million went to Smith's personal benefit: £1.8 million as a down payment on a yacht he was having built in Australia"



Lillian Oscar, financial investigator

record after the fact. Smith was so very frequently absent from Izodia's documentary record of crucial decisions that for us it became cause for suspicion in itself. Time and again, if we dug deep enough, we would always find evidence that he had been controlling events all along."

Scrutinising email traffic

The banking records showed what happened next. By Monday 5 August every penny of the £27 million had been transferred from Izodia's new account at RBSI and into Lynch Talbot's account in the same bank. Since the Izodia board had been tricked into the initial transfer from Reading to Jersey, and since it had absolutely no knowledge of this second transfer between RBSI accounts in Jersey, this was theft – and on a grand scale. But where was the conclusive proof that Smith was behind this second transfer?

Corporate email systems can be an invaluable source of evidential material but the widespread use of abbreviations and cryptic terminology means that investigators often have to read every word of every item for themselves. Kevin McDonald spent weeks wading through the in-boxes of Orb, Izodia and Lynch Talbot before finally finding what he was looking and hoping for: just a few lines from Smith to Trevor Jones, dated 4 August, saying "I please arrange for I monies to be placed on deposit via LT treasury. Diane should arrange for sufficient monies to be placed on Receipts account for MSDW after transferring £1m from agency subject to Thistle receipts Monday. I will phone pre 1200 any probs feel free to phone G". Not only did the email tie Smith tightly to the transaction that was, in essence, the moment of the theft, it also showed his high level of control; Jones was in London and Smith was on a chartered yacht in the Caribbean with his family and friends, having flown out on Saturday, the day after the board meeting.

Tracing the cash

The case team wanted to be able to demonstrate definitively to a jury that none of Izodia's money had been used to settle legitimate Izodia liabilities. Lillian Oscar traced every payment: "We could see that it had been a very close shave for Smith. Trevor Jones only just had time to carry out Smith's instructions before the first, £17.2 million interest payment on the Morgan Stanley loan fell due on the Monday. That payment alone absorbed £12.3 million of the Izodia money. Slightly more than £3 million had been paid to the various Swiss trusts and other individual investors. £2.8 million went into Orb Estates plc. A 30% share in a company called GDN had cost just over £820,000. Almost £1/4 million went to refurbish Orb's London offices and another £1/4 million went on executive jet rentals. Altogether nearly £2.3 million went to Smith's personal benefit: £1.8 million as a down payment on a yacht he was having built in Australia; £180,000 to the company that owned his homes; over £106,000 on building work in Jersey and London; and £20,000 for a water clock for the Jersey house. And every time we spoke to a company or a contractor they had never heard of Izodia."

False confirmations

The case team had known about the forged deposit certificates from soon after RBSI's concerns were reported to Jersey police. Now the full story had been pieced together and, crucially, the forger had been identified.

From the moment Izodia's £27.3 million was transferred to Jersey, Izodia's head of finance, Amanda Fox, had been asking her counterpart at Orb, Trevor Jones, for proper visibility over the deposits. On 13 August her persistence was repaid. Trevor Jones composed an email to Gerald Smith asking what he should tell Fox given that Orb's deposits were now earning just 3.0625%, nothing like the 4.5% the Izodia board had been promised. Then, by mistake, he sent the

email not to Smith but to Fox herself. The pressure on Smith and Jones, to at last show Fox something meaningful, increased sharply. On 10 September she copied her next request

"For the first time we had Smith's finger prints on a crucial piece of evidence"

to Jolliffe who was now determined that he would see evidence of Izodia's Jersey bank balances at the next board meeting, on September 18.

That meeting convened with only Catto, Jolliffe and Maberly present – no Vahey. After some discussion of the interest rate issue Catto suggested Smith be invited in to clarify matters. He arrived clutching a sheaf of 11 deposit confirmations from RBSI Asset Management Limited covering 2 August to 6 September and totalling £27,367,824.

Kevin McDonald: "Fox had suspected the certificates from the start; she'd noticed a spelling mistake and an incorrect address, but worst of all was the suspiciously neat interest calculation that came to precisely 4.5%. The clamour for some form of proof that Izodia's money was still safe had finally forced Smith out of the shadows. Jolliffe could not recall precisely how or when the certificates had entered circulation but Maberly could; he'd actually seen the forged certificates brought into the meeting by Smith himself. For the first time we had Smith's fingerprints on a crucial piece of evidence."

But who had created the forgeries? Among the many PC hard drives that investigators had imaged was a laptop found in one of Smith's Jersey offices. "It can take a long time to analyse every document and every file on every well-used corporate PC," says Kevin McDonald, "but in time we found this absolutely vital piece of evidence – a blank template for precisely the kind of deposit certificate that Smith had

taken into the 18 September meeting. It was almost identical to the Izodia fakes but, better still, it was made out to an entirely different company; one with which Smith was dealing at the time and in which the investigation was already taking a close interest." A year into the investigation and, evidentially speaking, the net was closing round the suspects.

Back in September of 2002 the emergence of the forged certificates had bought Smith some time, but not much. For a while Jolliffe thought the certificates genuine but he still wanted to bring Izodia's money back on-shore and he asked Corin Maberly to start making the preparations. The Izodia account had been emptied by Trevor Jones on 5 August, but on 10 September Lynch Talbot transferred back £2.7 million – an amount chosen presumably for its capacity to muddy the waters. When Maberly asked RBSI about Izodia's £27 million it indeed seemed to both parties that the other had made a mistake with the decimal point. Then, when Maberly faxed across one of the fake deposit certificates, the game was up and the drama entered its final phase. Smith sent Catto to Jersey where he told RBSI's deputy director Clive Spears enough lies about Maberly's integrity and the disposition of Izodia's cash to get the accounts unfrozen. The next day, 2 October, Smith sent Maberly to Singapore to keep him out of the way while things calmed down. But then, on 4 October, a still-rattled Smith clumsily tried to bribe Jolliffe and within a week the Izodia case had entered the SFO's vetting system through two separate entrances.

A second theft

Even as the SFO's vetting team assessed what was currently known about Smith and Izodia, a second theft was in the offing.

DI Edmondson: "As early as 4 September Vahey had asked Amanda Fox what other deposits Izodia had – they came to about £9 million. At about the same time Smith had instructed Fox to convert Izodia's foreign



Katie Badger, case controller

"The key decision was where to focus and on whom. It can be death to a successful prosecution if you bite off more than you can chew"

currency into sterling so that it too could be moved to Jersey. Fox ignored Smith but a month later Vahey asked her to give up Izodia's electronic banking terminal (HOBS) along with her smartcard, pin and password. With Jolliffe's support she resisted him too but once Jolliffe had gone there was little more she could do. Vahey and Jones removed the HOBS system from her office on 22 October."

Because the HOBS system could only make payments up to a daily limit of £1.5

million the second lump of Izodia cash, £7.3 million, was taken in seven bites. The payment records showed that even the last bite, £1.2 million dated 15 November, had been authorised by Fox and Maberly. In fact both had given up their access cards and codes to Vahey weeks earlier. It was Smith who had given the instructions for every payment and Izodia's two remaining directors, Catto and Vahey, who had approved them.

Was this Smith, Catto and Vahey at their most audacious or most desperate? Probably the latter; another Thistle interest payment,

this time very nearly £9 million, was due on 5 November, by which time the second theft was almost complete.

Preparing for trial

By the middle of 2004 the case team had begun to think hard about who would be charged and with what. This is the point at which the focus shifts away from investigation and towards the coming prosecution, in particular the trial itself and how best to structure and present the case to a jury.

In 18 months the investigation had covered not just Izodia but another company too, and not just Smith but a large number of other individuals – employees, associates, friends – all of whom were to varying degrees associated with Smith in his attempts to gain control of Izodia. It had concerned itself with not just the key dates in August when Smith secured the initial transfer of Izodia's £27 million to Jersey, but also with the circumstances in which he obtained his shareholding during the months before and what had happened to Izodia's money in the months after.

During the investigation Philip Blakebrough had had to close down a fresh and very promising line of enquiry for fear that it might overstretch resources and jeopardise the whole case. In October 2004 Katie Badger took over as case controller and now she had similar decisions to take about the size and shape of the prosecution phase: *"The key decision was where to focus and on whom. It can be death to a successful prosecution if you bite off more than you can chew. Instead of strengthening your hand, you end up weakening it because the case can become so complex that the defence finds it easy to sow seeds of doubt in the minds of the jury and the prosecution can struggle to get its points home."*

It is SFO practice to appoint counsel early so that they can work closely with the case team in structuring the case and refining the charges. Jonathan Caplan QC was the SFO's

lead counsel and Amanda Pinto (now a QC herself) his junior. Jonathan Caplan: *"Every complex case, no matter what it is, is reducible to two or three simple propositions of fact. And the key for the case team is to establish what those are. At the investigation stage of course it is right to investigate widely. But the whole purpose of having an operational team such as you have at the SFO, with counsel coming in at an early stage to meet with SFO investigators and the police, is that it provides an opportunity to direct the investigation together, with the trial firmly in mind, at a time when the case team is sufficiently well-informed to start imposing some self-restraint and focus."*

It is SFO practice to appoint counsel early so that they can work closely with the case team in structuring the case and refining the charges

Katie Badger: *"Gerald Smith was clearly the mainspring, but he couldn't have done it alone. By far and away the most prominent and active among his helpers were Peter Catto and Jar Vahey. They'd lied to RBSI about their status as directors, fraudulently authorised electronic access to Izodia's cash and then lied to conceal the existence of the facility. They joined Smith in repeatedly giving false assurances to Jolliffe and Maberly about the security of Izodia's cash. And, after Jolliffe resigned on 4 October, Catto and Vahey, as the only remaining Izodia directors, were indispensable to Smith in his raid on the second tranche of cash."*

And then there was the key question of timing to consider. The time period covered by the indictment can have a profound

bearing on how the case is best presented in court. Jonathan Caplan: *"This was a large fraud but we felt that the key to success would be in finding a way to concentrate on that very small window of time that mattered and on those very few key events that mattered. This meant stripping away all the background as to how Smith got involved with Izodia and with whom, and what payments he may have made to other people to get himself into the driving seat. What really mattered was how he got the bulk of the money in August and then the smaller slice in the autumn. If we could focus on these key moments, and focus on just the three key individuals, then we felt confident that the trial would last no longer than two months – a very short time for a serious fraud case – and that we would succeed."*

Charging

By January 2005 statements were being finalised and arrangements were being made for the defendants to attend a police station voluntarily to be arrested and charged. But the process of charging the three men would prove much more complicated and time consuming than anyone expected.

A date was set for all three defendants to be charged by Thames Valley Police. Because Smith travelled widely on international business – he'd been to Libya several times in recent months – he was considered a potential flight risk and Katie Badger planned to seek strict bail conditions including surrender of his passport, prescribed residency and a £2 million surety.

On 2 February only Vahey kept his appointment. He was duly charged and released on police bail to appear at Bracknell Magistrates' Court two weeks later. Catto had health problems – thought to be a serious heart condition – which prevented him from attending.

Smith's appointment was at 11am. By noon even his own lawyers had grown impatient. They spoke to him several times on

his mobile – he was always on his way – but in the end they gave up waiting. Fears that something serious was afoot were fuelled by the failure of Smith's surety to turn up as well. Efforts to trace Smith proved fruitless until at 7pm that evening it was reported that he'd had a car accident and had been taken to Wexham Park hospital, near Slough.

It was a serious smash – Smith had to be cut from his wrecked Audi A8 – but the circumstances surrounding the accident

remain a mystery, seemingly even to Smith. The car was impounded so that the cause could be investigated and when traffic police searched it they found two first class tickets to New York in Smith's briefcase in the boot. Philip Blakebrough knows the road well: *"He ran into a tree in Windsor Great Park, but the cause remains shrouded in mystery. One thing's for sure; he was definitely not on his way to the police station."*

"This was a large fraud but we felt that the key to success would be in finding a way to concentrate on that very small window of time that mattered and on those very few key events that mattered"



Jonathan Caplan, QC

And given that he wasn't found until 7pm there was no reason for him not to have attended in the morning. He said he'd been in a meeting at 11am and had forgotten. Forgotten that he was supposed to be going to a police station to be charged with the theft of £35 million? I doubt that."

Smith, in his wheelchair, was finally charged on 18 February 2005 but to Katie Badger's disappointment medical advice kept him from being remanded in custody. He was bailed to appear at Bracknell MC on 2 March on the supposedly strict condition that he would reside in Sunningdale.

AWOL

From the moment bail was granted Smith began whittling away at it with an endless series of applications for variation. Each one required an SFO lawyer to attend court, and each time, to the case team's irritation, the judge favoured Smith. Detective Sergeant Phil Rudd, along with his colleague DC Rob Glen, was responsible for supervising Smith whilst he was on bail. *"First he needed to go to Jersey for his children's Easter holidays, so he was allowed to reside either in Sunningdale or Jersey,"* recalls DS Rudd. *"This created a lot more work and cost for the case team because we had to approve each application to relocate. Then he needed to travel to France to redecorate his rental property in Courcheval – this was in fact a luxurious ski chalet that he rented out for £25,000 a week. He said he would also need to travel to Northern Italy to buy furniture! Again the judge conceded Smith's request. The SFO was adamant that he could not have his passport back, but thanks to the Schengen Agreement he didn't need it to travel inside Europe."*

Just keeping track of Smith and his endlessly varied, and by now rather liberal, bail conditions was taking up a significant amount of SFO and police resources. But soon he pushed his luck a bit too far. Smith had made several applications to have his bail

varied specifically so that he could go to the US on business but they had all been refused. Then, thanks to an almost unimaginably improbable piece of good fortune, a senior SFO investigator received information that Smith had gone to the US anyway using an old passport replaced months previously (because its visa pages were full) but which had never been destroyed. *"We made checks with BA but Smith was back in London by the time the facts were confirmed,"* recalls DS Rudd. *"We arranged to intercept Smith as he boarded a train at Paddington Station. He knew the score the moment he saw us. I said 'It's nothing personal Gerald but you are under arrest'; and he said 'You've got to do what you've got to do, and I've got to do what I've got to do. I'm in a high risk business'."* Was that an admission of guilt?, thought DS Rudd.

Smith owned up to one US trip but his visa stamps told another story; he'd been twice. It was clear to all, including the courts, that here was a man who behaved as though bail conditions were for others. And so, just before Christmas 2005, he was remanded in custody pending trial in the spring. He should have stayed inside for the duration – the trial was not scheduled to start for another four-and-a-half months – but in 72 days he was out again and back in hospital. The bones in his leg were not knitting; they would have to be re-broken and the leg put in traction. This time, unusually, Smith was bailed conditional upon being resident in a hospital. Once he was fit enough to be discharged the open wounds prevented him from being held in a prison hospital so he was allowed to return to Sunningdale, but only Sunningdale. It would be years before he saw Jersey again.

Restraint and confiscation

The Proceeds of Crime Act 2002 now entitles the SFO and police, working with the Assets Recovery Agency, to recover very substantial sums from convicted fraudsters, both by confiscating the proceeds of their crimes and

by way of compensation for their victims. At about the same time that charges were being refined and the case prepared for trial a completely separate team of SFO investigators began looking closely into the nature and disposition of Smith's assets with a view to ensuring that, should he be convicted, they could not be moved beyond the reach of the UK courts. A restraint order, preventing Smith from dissipating or otherwise disposing of his assets, was imposed by the courts on 5 May 2005.

Gary Leong is the case controller for the SFO's confiscation and restraint proceedings against Smith: *"Restraint work is one area in which the prosecution can and must work proactively. Unlike on the prosecution side, where the system works in favour of the defence, helping them to obfuscate issues and keeping the prosecution team in reactive mode, the restraint laws allow the prosecution to be proactive with the burden of proof often, and correctly, imposed on the defendant. After all, if Smith didn't know where all his assets were, then who did?"*

The extreme opacity in Smith's affairs, as well as his vigorous attempts to repel the restraint investigation and restraint order on his assets give proof to the truth of that statement. Despite the extravagant lifestyle and opulence of his surroundings, Smith had no assets in his own name and the restraint team had to slowly piece together a picture of his asset structure.

Gary Leong: *"The first application to seek a relaxation in the restraint order was made by Smith's wife, Gail Cochrane, on 13 July. After some argument we established that a significant proportion of the assets were tied up in what the judge is on record as calling a 'shadowy trust', created by a similarly shadowy figure, a Mr Ozturk. Cochrane was unsuccessful in her July application and two months later Smith made a similar attempt. This succeeded at first but we appealed the decision and within four weeks, on 25 November 2005, the Court of Appeal agreed*

with us and overturned the decision in the lower court."

At the time of publication Smith had already tried to negotiate an agreement based on a limit of £5m being placed on the confiscation order. This was not accepted by the SFO and the confiscation will now resume at a date yet to be set.

Guilty

By the beginning of 2006 Catto had applied successfully to be tried separately on grounds of ill health, but a trial date for Smith and Vahey had finally been set for 24 April 2006.

The Proceeds of Crime Act 2002 now entitles the SFO and police, working with the Assets Recovery Agency, to recover very substantial sums from convicted fraudsters

Katie Badger and her case team were satisfied that they had done all they could. It would have been so easy to have become bogged down in the vast amount of detail thrown up by Smith's complex affairs and web of helpers, but they had not. They'd stayed focused, they'd kept it simple, and now they had a case that proved in a straightforward and easy to explain way that he'd taken the money dishonestly and that he'd spent it for his own personal and commercial interests. The newly-introduced Criminal Justice Act 2003 also gave them a weapon that no previous SFO case had ever used; the first application to introduce a defendant's previous convictions as evidence of bad character. Surely this was a *cul de sac* for Smith from which no court would release him.

In Catto's case the situation was both simpler and, tragically, much more complicated

Such reasoning was not, it seemed, the sole preserve of the prosecution. On the first day of the trial Smith bowed to the inevitable and pleaded guilty to a total of ten counts of theft (totalling £34 million) and one of false accounting.

Vahey and Catto

Cause for satisfaction at Elm House and in the Thames Valley, but now Katie Badger and her colleagues had to decide what they were going to do about the two remaining defendants. *"Once Smith had pleaded we knew pretty much immediately that the public interest did not justify a trial of Vahey alone. As an employee of one of Smith's companies Vahey had a potentially fruitful defence in claiming that he had not known that this money did not properly belong to Orb. Smith, now with nothing more to lose, might even give evidence for Vahey saying that he had, indeed, manipulated him."* Proceedings against Vahey were halted but his two counts of conspiracy to defraud were to remain on the file.

In Catto's case the situation was both simpler and, tragically, much more complicated. He was charged towards the end of March 2005. By the beginning of June the prosecution was aware of the severity of his heart condition, for which he was awaiting surgery. In such cases it is routine practice for an SFO doctor to verify the medical facts presented by the defence. What is not usual is for the prosecution doctor to uncover an even more serious diagnosis; Catto had cancer and would never be well enough to stand trial. In July the SFO halted the prosecution but in October Peter Catto committed suicide at his home in France, driven to it, his stepson Ben Catto told journalists, by the pain and suffering caused by his illness and its treatment.

'A case in point'

For the case team the fact that Smith had been forced to plead guilty was more than just a victory, it was a vindication of their determination to focus and to avoid derailment.

Katie Badger: *"This was a great triumph for the whole team. We were focused and clear in our objectives and our targets and Smith realised that he had no opportunity to divert the jury's attention by having lots of skirmishes on the perimeter of an over-complex case, no opportunity to move the battle ground to our disadvantage, so no opportunity to run anything like a robust defence."*

Caplan has nothing but praise for the case team's determination to home in tightly on the biggest offenders and the most important offences: *"As long as major frauds are tried by juries the prosecution has to go for the key incidents; stripping the fraud to its bare essentials and targeting the key people in the drama. That is how you make a serious fraud case winnable. It is a tribute to the SFO and the Thames Valley Police that this is exactly what they did."*

Even though Smith pleaded guilty in April he still couldn't be taken into custody immediately because of the risk of infection. It was another five months before he was back in court for sentencing. On 11 September 2006, at Cambridge Crown Court, Dr. Gerald Smith, former general practitioner turned serial fraudster, became the first person to be imprisoned twice as a result of SFO prosecutions. He was sentenced to eight years' imprisonment and disqualified from acting as a company director for 15 years.

A CLOSER LOOK

AN INSIGHT INTERVIEW WITH THE VETTING TEAM

The SFO's vetting department is a small team with a big job. Its full name is the vetting, standards and overseas corruption unit. It is the 'gateway' through which all cases first enter the SFO.

Set up in November 2005, the department is led by Tony Farries and his deputy Christine McCulloch. Together they have 27 years of experience at the SFO. Farries, a solicitor, joined the SFO as a case

controller ten years ago from the central casework fraud division of the Crown Prosecution Service (CPS). McCulloch, a qualified accountant, has spent 17 years at the SFO, making her one of its longest serving financial investigators.

"Initially we examine the allegation in the light of the SFO's standard critical factors," says Farries. "How much is at risk? Does the fraud appear complex? Does the case involve substantial public interest? Will it have a significant international dimension? Will legal, accountancy and investigative skills need to be brought together? Are Section 2 interview powers needed? Is the case such that it should be investigated by the same authority which will conduct the prosecution? [Full details of the SFO's acceptance criteria can be found on page three.] But in the real world of finite budgets and resources we can't leave it at that. Our focus must be on those cases that will make the best use of the SFO's resources. So, each vetted case that we send to the Director carries not only a yes/no assessment based on the standard criteria but also some indication of how difficult any investigation is likely to be and what problems are likely to be encountered."

More recently vetting has been asked to provide a third layer of case assessment, as McCulloch explains: *"SFO case teams must cope with massive quantities of evidence, which can be difficult to navigate through. At the vetting stage we now also make suggestions about how the evidence might be approached in a way that will get the case team off to a flying start. For example, we had a case in which a company in administration had had its cash stolen and been driven into bankruptcy under the very nose of the administrator. There was an obvious case of long-term fraudulent trading, with all the attendant difficulties of a long time-frame and a massive evidence burden. But there was also a much simpler aspect – how the accused had managed to subvert the administrator. This activity spanned a single year, the key documents had been identified making this ideal for a targeted investigation and prosecution and, crucially, it would be*



The HQ of the UN, New York

controller ten years ago from the central casework fraud division of the Crown Prosecution Service (CPS). McCulloch, a qualified accountant, has spent 17 years at the SFO, making her one of its longest serving financial investigators.

Vetting

Most SFO cases are referred by the police, although the Department of Trade & Industry (suspicious company collapses) and Financial Services Authority (stock market irregularities), along with other regulators and government departments, are also important sources. Some cases arrive having been referred through the joint vetting committee (JVC) of criminal justice and regulatory organisations, which is chaired by the SFO.

Only the SFO's Director can make the decision to accept a case for investigation. It is the vetting team's job to ensure that any decision he takes is done on the basis of the

much easier to explain to a jury. It clearly provided the more efficient route to a successful prosecution."

At the SFO such questions of case structure and strategy are the responsibility of the case controller, and McCulloch emphasises that the vetting team give suggestions, not directions: *"Since nobody can know beforehand what the investigation itself will uncover, the final call must always be the case controller's. But experience does give you a feel for the type of difficulties that may occur as the case progresses. We are simply trying to share those insights as early as possible in the case planning process."*

The greater weight now being given to vetting factors which focus on what might loosely be termed 'winnability' is an important development at the SFO. McCulloch: *"There is a view that the SFO should aim to capture all the criminality uncovered by its investigations. But nowadays budgets are too tight, the media spotlight too bright and the pressure to make trials shorter too great to make a success of such an approach. Times change and we are changing with them; a modern approach to fraud investigation and prosecution is to structure and focus our cases in ways that will optimise resource use and maximise our prospects of getting the outcome we seek."*

Standards

Which brings us neatly to the unit's newest responsibility; co-ordinating the identification of best practice and then helping to spread its use throughout the organisation.

"The SFO as a whole is trying to shorten the time taken to carry out its investigations whilst maintaining the quality of its results. As part of that organisation-wide effort we are developing a series of best practice guides, each covering a discrete activity across the full range of investigation and prosecution functions, to make sure that the full SFO experience base is available to all," says Farries. *"We thought that best practice,*

like charity, ought to begin at home, so one of the first of the guides will cover vetting, aiming to enable any suitably experienced SFO colleague to complete a vetting exercise effectively. Also Christine will soon finish a major piece of work on best practice in the delicate area of disclosure of evidence to the defence; this is a joint effort by both our unit and the SFO's policy division."

Private applicants

The vetting unit also acts as the contact point for members of the public wishing to report allegations of fraud or overseas corruption.

The unit handles between 20 and 50 private applicants each week. It is rare for reports of this kind to launch an investigation, but sometimes people do provide useful information about an inquiry that is already underway or a matter being vetted; they might be a victim, for example. In addition the unit handles quite a few 'telephone applications', many relating to known scams or matters which do not fall within the SFO's remit and which are dealt with by other bodies. When possible, callers are advised whom to contact. The same process is followed for written reports. In many instances the complaints have already been reported to other investigating or regulating bodies, whether or not the applicant mentions this; most of the preliminary enquiries undertaken do not actually yield any additional information that constitutes evidence. It can be quite frustrating for all concerned.

But once in a while a private applicant turns out to be a whistle-blower with an important story to tell and enough information to back it up sufficiently. Then, especially where the evidence might be at risk, it's all hands to the wheel. *"I remember taking a call just before five one Friday – that was the end of our weekend,"* says Farries. *"We worked until 11 o'clock that night with the complainants, the stock exchange and the police. Then we reconvened at ten on Sunday morning and finally had the case in shape for*

the Director by seven-thirty that evening. First thing Monday morning it was accepted for investigation and the case team were doing the first searches the same evening."

Overseas corruption

In July 2005 the SFO became the national reporting point for all allegations of corruption made against British citizens and companies outside the UK in respect of the bribery of overseas officials. Two years on and the overseas corruption brief absorbs a significant amount of the vetting team's energies.

"Allegations of overseas corruption differ from domestic cases in one very important respect," says McCulloch. *"There is normally very little official paperwork, let alone any evidence, to back up the initial allegations. This fundamentally changes the nature of the vetting process because we have to perform a number of preliminary enquiries ourselves."*

This can leave the vetting team in something of a Catch-22 position: Section 2 notices, cannot be issued for a case still in the vetting process, only for an investigation, causing difficulties in obtaining sufficient evidence to make an informed decision about whether the case meets the SFO's criteria and should therefore be accepted for investigation. However, although having the ability to issue Section 2 notices would be useful, it would need to be used with extreme caution, to ensure that any formal investigation was not compromised. McCulloch: *"Once we have done the open-source stuff, like checking to make sure it really is a British company or person at the centre of the allegation, we are largely dependent on the goodwill of the foreign prosecution authorities."*

With luck this Catch-22 will soon be a thing of the past. Farries: *"There is agreement in principle that we will be enabled to use Section 2 powers at the vetting stage – but only for overseas cases."* In the meantime there is no substitute for face-to-face contact:

“One of our biggest jobs last year was to analyse the allegations that came out of the US government’s Volker enquiry into corruption in the Iraqi oil-for-food programme run by the UN”

“Some national fraud investigators don’t have a formal procedure for sharing information with their foreign counterparts, but if you are standing in their office they will often share with you what they’ve got. Then you can make a proper judgement quite quickly. Once we have officially opened a case we can make a formal request for the evidence and make use of Section 2.”

But it is not always the case that overseas corruption referrals come with little documentation. The complete opposite was true of the unit’s main overseas corruption project in 2006. Farries: *“One of our biggest jobs last year was to analyse the allegations that came out of the US government’s Volker enquiry into corruption in the Iraqi oil-for-food programme run by the UN. We were in New York gathering information just before Christmas 2005, had an interim report on the Director’s desk in March/April 2006 and an investigation plan and full budget ready by the end of the year. An SFO enquiry team began work in January 2007.”*

The vetting team has also worked with the Costa Rican government on a joint enquiry into British involvement in the alleged bribery of a former president. The City of London Police overseas corruption unit, a team set up in 2006 with special funding from the government’s Department for International Development (DfID), performed its first ever searches working in conjunction with the SFO case team when the case was accepted for investigation.

A number of other big overseas corruption cases are in the pipeline and will shortly come up for a decision by the Director.

The future

In the current report year the vetting caseload has maintained its previous year’s rate of 50-60 cases a year. Even without the overseas referrals, it’s a heavy workload for a small but dedicated team.

The SFO’s annual resource vote from parliament grew steadily between 2000/01 and 2005/06 (see page ten), but now budgets are static in cash terms. Overseas corruption – with referral volumes and case complexity both on the rise – may demand extra, dedicated funding; everywhere else the vetting team is looking closely at working practices in search of potential efficiency gains.

“One of our aims is to shorten the time it takes to deal with the cases that we are likely to accept,” says Farries. “Vetting some cases can be so much harder than others – a lot depends on the amount of information that accompanies the referral, who is the source of the referral, the type of fraud and whether the case is borderline for SFO acceptance. It can take quite a bit longer to deal with the cases we are unlikely to take on – the more marginal a case is the more effort we must expend ensuring that we are making the right decision. On the other hand, where we are likely to accept a case it needs to be processed as quickly as possible. So we are at present trying to develop a mechanism for predicting the vetting workload more accurately so that we can deploy our limited resources more efficiently.”

JESSICA DE GRAZIA AND THE REVIEW OF THE SFO

The SFO Director and the Attorney General have appointed former senior New York City prosecutor Jessica de Grazia to conduct a wide-ranging review of the way the SFO approaches its cases.

de Grazia has been asked to analyse and report on the laws, systems, processes and culture that direct the prosecution of SFO cases, from initial complaint through to the jury's verdict: *"We want to see if lessons can be learned by comparing the UK experience with other, similar jurisdictions. It is best to compare apples with apples so we are starting with New York State and the U.S. federal system. The UK and US legal systems are both adversarial – rather than inquisitorial, as is common in the rest of Europe – and both are rooted in the common law. London and New York are also similar economic centres in that they are politically very important, nationally and internationally, and they are both global financial centres. We also wanted to look at more than one comparable jurisdiction; in focusing on New York we get to consider two at once – the state and the federal – and there are significant differences between them."*

Married to an Englishman since 1973 and with two children raised in the UK and now attending English universities, de Grazia founded her specialist international investigations firm *Interro* in London in 2000. Throughout Europe and the Middle East she works with blue-chip corporations and government agencies, among them the Crown Prosecution Service (CPS): *"I have been assisting the CPS in developing a 'proactive prosecution culture'; in other words, one that is better at deciding which cases merit prosecution, where to focus investigative resources, how to develop the best case, and then how to present it in a fashion that is most likely to result in a conviction."*

de Grazia's credentials for the SFO review are exceptional. She has held a number of very senior positions in the New York District Attorney's Office. As chief assistant district attorney, Manhattan's highest non-elected law officer, she oversaw 400 lawyers and 700 support staff, among them a large team of dedicated fraud investigators and prosecutors. She also led the Operation Trinity Task Force

whose effectiveness in investigating and prosecuting drugs-related homicides among New York's most dangerous organised-crime gangs led, at the peak of its success, to 12 successful murder prosecutions in a single year.

Because de Grazia not only oversaw complex investigations, interviewing witnesses and presenting them to the Grand Jury, but also acted as trial advocate (broadly the

"We want to see if lessons can be learned by comparing the UK experience with other, similar jurisdictions"





Manhattan and the Brooklyn Bridge

the case will definitely go to trial. This saves substantial resources, which are then converted into other investigations."

Her familiarity with the criminal justice systems on both sides of the Atlantic seems only to have increased her respect for the public prosecutors and investigators working within the English system: *"My first impressions of the SFO are that there are a lot of good people working in a system that can make life very difficult for prosecutors – the growing complexity of the rules on evidential statements and disclosure are cases in point. It's testimony to their character that morale remains so high."*

equivalent of a QC), she has a tremendously detailed understanding of the full functioning of a highly-effective public prosecution system. It is this broad senior experience that has made her insights and analyses so valuable to the UK prosecution services: *"Working one's way up through the ranks in the DA's office you come to understand fully what makes a good prosecutor's office. Because you have experienced how everything fits together, there are no mysteries."*

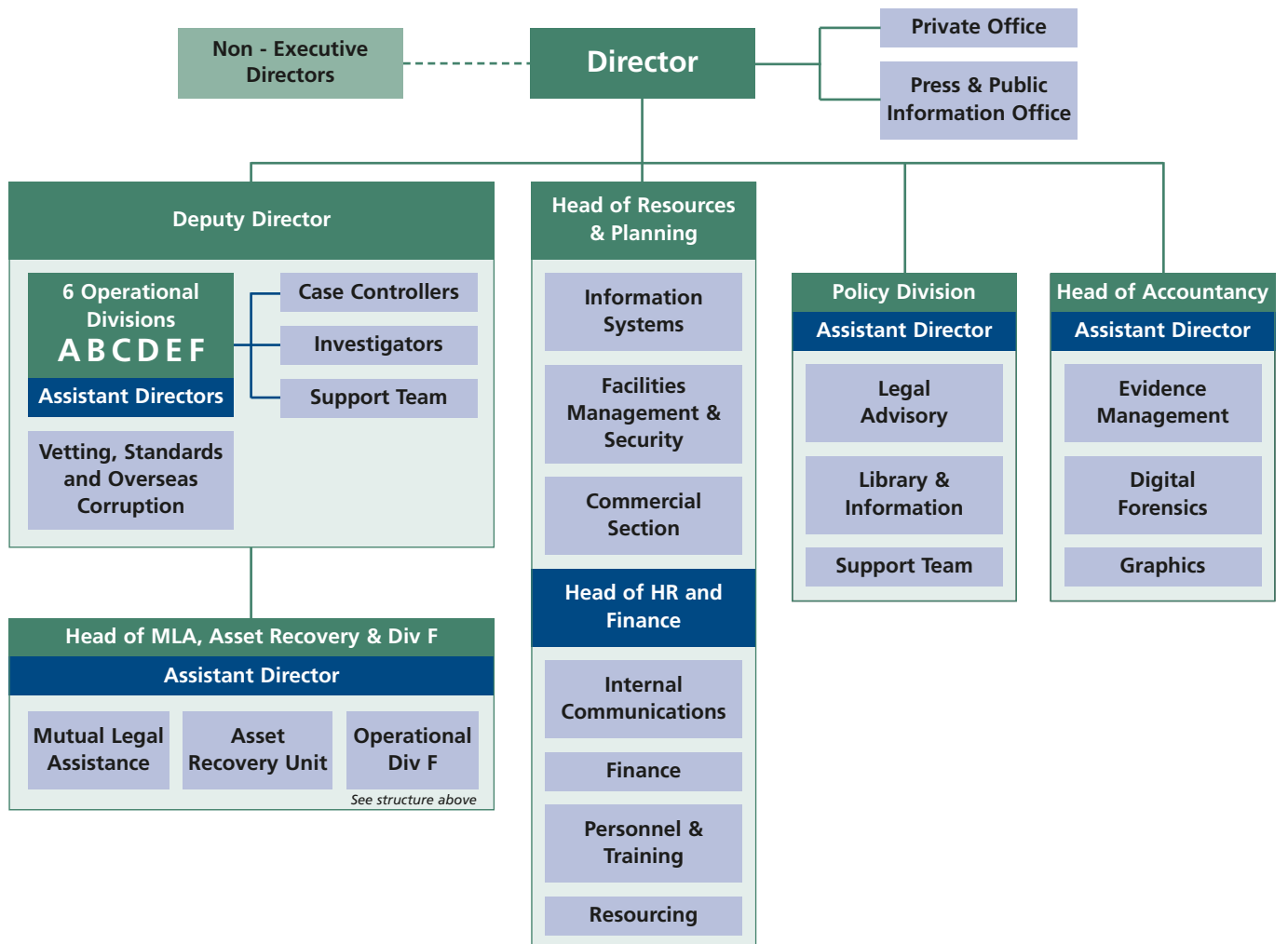
de Grazia expects to deliver her report early in 2008. In the meantime she will be talking to prosecutors, investigators and support staff across the organisation, exploring the genesis, conduct and outcome of key cases. An important feature of the review will be to look closely at those cases which the two jurisdictions have in common: *"We are looking at a range of cases but particularly those which are joint investigations and/or trials between the UK and the US. With offences common to both jurisdictions we can make clear and precise comparisons of how the investigations, prosecutions and convictions have proceeded in each jurisdiction, and then consider what effect any differences have had on the*

progress and/or outcome of the case."

As the Izodia case study on page 22 illustrates, acquiring evidential statements from 'busy' international businessmen can be a frustratingly slow matter for SFO prosecutors. Similarly, it is not uncommon for SFO case teams to invest heavily in preparing their cases to trial standard only for the defendant to plead guilty at the last possible second. In these and other procedural matters de Grazia makes no secret of her view that the US system is the more efficient: *"The New York Grand Jury system is demanding – witnesses cannot avoid their public responsibilities to provide truthful and complete evidence in a timely fashion – but there are protections too. Prosecutors can compel testimony but in return the witness is granted immunity from prosecution for any crime related to that testimony and the proceedings are secret. Nor does witness testimony or witness information have to be reduced to evidential statements before trial; in the UK this is a very cumbersome, time-consuming and costly requirement. Nor does a case have to be prepared to a trial standard before, or even after, the filing of the indictment; that only happens when it is clear that the defendants will not plead guilty and*

Appendix

Organisation chart



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