SWEEPING IT UNDER THE CARPET:
THE ROLE OF ACCOUNTANCY FIRMS IN MONEYLAUNDERING

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Abstract

White-collar crime is increasing in the Western world. It has been estimated that some £500 billion of hot money is laundered through the world's financial markets each year. Such huge amounts of money cannot be successfully laundered without the involvement of accountants (and other professionals) who use their expertise to create the complex webs of transactions whose purpose it is to conceal and obscure illegal activity. Despite this involvement, accountants and auditors are expected to play a leading role in the reporting of fraud and moneylaundering. Through a detailed consideration of a case in which a small accountancy firm was judged by the High Court to be involved in moneylaundering, the paper explores the relationship between regulators and errant accountants. The reluctance or inability of the regulators to pursue other accountants and larger accounting firms implicated in this case suggests that, by design or by default, the current regulatory apparatus operates to shield the activities of accountancy firms from critical scrutiny.

Keywords: White-collar crime, Moneylaundering, Accountancy Firms, Regulatory Practices

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INTRODUCTION

Accounting calculus and ideologies have become a major influence on commercial and everyday life in most Western societies. *Inter alia* accounting has developed as a means of recording transactions and identifying, and thereby inhibiting, fraudulent activity. Accountants routinely trade upon their claims of rationality, professionalism and 'service of the public interest' to secure or extend their monopolies (e,g, external audits), privileges and status. In this way, accountants have colonized both public and private sectors where their calculations routinely inform decisions about the allocation of goods and services, including employment health and education.

Major advances have been made in illuminating the expansion of 'accounting think' in relation to the social, economic and political role of accounting and accountants (Tinker, 1985; Lehman, 1992; Hopwood and Miller, 1994). But comparatively little research has addressed the antisocial and predatory acts of accountancy firms, their partners and advisers (Tinker and Okcabol, 1991). One aspect of such antisocial action concerns the apparent links between accountants and white-collar crime. Yet, despite being a phenomenon that is increasingly scrutinised by social scientists (e.g. Levi, 1987; Nelken, 1993; Geis et al, 1995), and frequently reported in the daily press[1], the involvement of accountants[2] (Pizzo et al, 1989; Kerry and Brown, 1992) in white-collar crime has been generally neglected by accounting academics.

It is estimated that some £500 billion[3] of hot money is laundered[4] through the world's financial systems (The Times, 20 September 1995, page 26). The increasing amount and visibility of white-collar crime has been perceived as a threat to the reputation of London as a (comparatively) clean international

financial centre. In response, the UK government has introduced legislation (e.g the Criminal Justice Act 1993; The Money-Laundering Regulations 1993; also see Bosworth-Davies and Saltmarsh, 1994; Bingham, 1992) that requires accountants and auditors (and other financial advisers) to play a central role in the detection/reporting of fraud and moneylaundering. This legislation expects accountants and auditors to override their commercial concerns and report suspicious transactions and schemes to regulators. These requirements presuppose that accountants themselves are not a party to such transactions even though they have a history of what Woolf (1983) calls "turning a blind eye on the wholesale abuse by client company directors of [legal] provisions" (page 112) and disclosing considerably less than what they actually know (Woolf, 1986, page 511; also see Sikka and Willmott, 1995).

In 1993, Britain's major criminal law enforcement agency, the Serious Fraud Office (SFO), was investigating 57 cases of fraud which alone amounted to some £6 billion (SFO 1994, page 8). Such large amounts, it has been argued, cannot easily be laundered without the (direct or indirect) involvement of accountants[5] (Kochan and Whittington, 1991; Stewart, 1991; Barchard, 1992; Davies, 1992; Kerry and Brown, 1992; Lever, 1992; the Financial Crime Enforcement Network, 1992; Ehrenfeld, 1992). It is accountants, amongst others, who are knowledgeable of the world's financial systems. It is accountants who are able to create and manipulate the complex transactions which make it difficult to identify and trace the origins and the ultimate destiny of the illicit funds or, when acting as auditors, are reluctant to reveal and report such activity.

By detailing a court case in which two members of a small accounting firm was judged to have 'knowingly' laundered money and assisted in the misapplication of the plaintiff's [AGIP[6]] funds, this paper illustrates how money laundering activity is undertaken. It also draws attention to the alleged involvement of larger firms in the case. More importantly, perhaps, it highlights the operation of the

regulatory apparatus in the UK in addressing cases of moneylaundering. Despite the court judgement, the reluctance of regulatory authorities to investigate evidence and allegations brought out in this case indicates an alarming degree of inertia and buck-passing within the UK regulatory process. The evidence of this case suggests the existence of a deeply ingrained indifference to the apparent involvement of major accounting firms in moneylaundering activity or, at least, an institutionalized disinclination to undertake vigorous and open investigation of such cases.

The paper is organised into four sections. The first section sketches a framework for understanding white-collar crime. Often attention is focused upon the acts of individuals, but in contrast, we argue that more attention should be given to the organizational and social contexts that tolerate or 'turn a blind eye to' white-collar crime. The second section describes the case of *AGIP (Africa) Limited v Jackson & Others (1990) 1 Ch. 265* in which an accountancy firm (Jackson & Co.) was found to have used a series of shell (or cut-out) companies to launder money (Mansell, 1991a; also see Robinson 1994, page 293). We detail the way in which very large sums of money passed through the offices of this firm, though the only benefit derived by those involved took the form of standard fee income. Additionally, our examination of this case raises some questions about the role of two other accountancy firms: Grant Thornton whose tax manager allegedly provided a number of contacts for Jackson & Co., and Coopers & Lybrand whose audits of AGIP did not detect the fraud which allegedly began in the mid 1970s. We submit that the clarity of High Court judgement and the many unanswered questions surrounding the comparatively high-profile AGIP case should have attracted the attention of UK regulators. More specifically, allegations made during the course of the trial should have prompted an investigation of the involvement of the larger accountancy firms in the AGIP affair. The apparent lack of action prompted us to engage in a dialogue with the regulators. Through a series of questions raised in Parliament and numerous letters to regulators and Ministers, including the Prime Minister, we sought to discover how the regulatory apparatus was responding to the revelations of the AGIP case. This correspondence is

reported in the third section of the paper. On the basis of the findings derived from our investigation of the response of the regulators and Ministers, the fourth section concludes that regulatory indifference and inaction is symptomatic of a close and indulgent relationship between the UK accountancy profession and the state.

UNDERSTANDING WHITE-COLLAR CRIME

Under the weight of liberalist critiques, the state's role in the economic sphere is severely restricted. With the exception of a diminishing sector of public utilities, the modern state lacks its own means of production. It is therefore dependent upon the private sector to generate the wealth necessary to provide public services, including education, social security, health and defence (Habermas, 1976; Offe, 1984, 1985). In order to maintain and expand these services, and thereby sustain its legitimacy, institutions of the state are obliged to enact and enforce policies which serve the long-term smooth accumulation of economic surpluses by private capital. Such policies include the use of legislation to regulate transactions within the private sector, including the enactment of legislation that defines and outlaws particular kinds of activity, such as fraud and moneylaundering which have been ascribed the label of 'white-collar crime'.

Attempts to regulate economic activity may be resisted as those who perceive their 'private interests' or 'freedom' to be detrimentally affected by such regulations. They strive to apply pressures, individually and collectively, upon the state to limit and dilute restrictions upon their activity[7]. When attacking regulations, the business sector routinely ridicules and challenges the laws on the grounds that they stifle economic activity and infringe their right to privacy, etc. Subsequent de-regulation may please large sections of the business sector but, in addition to risking loss of mass support for liberalization, its longer term consequence may be the undermining of confidence when the paralysing effect of

uncertainty outweighs the costs of compliance. Without 'hierarchy', the tendency of free 'markets' is to degenerate into chaos as the absence of trust is not made good by the rule of law.

In order to secure even minimal compliance and enforcement with some laws - for example against corporate crime, fraud, institutionalised lawbreaking - vigilance is required inside private organisations. The separation of public and private spheres in modern societies means that, to a greater or lesser extent, the state depends upon the business sector to monitor and report compliance. The form of this regulation of economic activity is a product of recurrent conflicts which involve a process of negotiation and bargaining between representatives of the public and private sectors. Exemplifying this process of negotiation, social policy on white-collar crime, including fraud and insider dealing, is constantly in the making: a relaxation of legislation that inadvertently undermines business confidence and/or mass support is followed by pressures for increased regulation.

The business world may contest and resent the direct encroachment of the state into what they might consider to be private affairs. Yet, in addition to demands for 'stability' and 'predictability', ideologies of justice, fairness and accountability and pressure group activity demand that the state place restrictions upon the powerful and, to some extent, holds them to account. In the context of the UK state, responsibility for working out and applying the detail of regulations is often delegated to occupational groups, such as accountants. The members of such groups are recognised by the state (e.g. through the receipt of a Royal Charter) on claims of possessing a level of expertise and a standard of conduct sufficient to assume responsibility for the regulation of a particular field of activity. In effect, a sponsoring Ministry (e.g. the Department of Trade and Industry, in the case of accountancy bodies) keeps a watching brief on the activities of the accountancy bodies and, in principle, ensures that effective mechanisms exist and are used to root out and punish misconduct. In relation to fraud, the members of accountancy bodies claim an ability to identify suspicious transactions. Suspicious

transactions leading to money laundering, the Institute of Chartered Accountants in England & Wales (ICAEW) advises, can be spotted by being aware that "companies or trusts have been formed with no apparent commercial or other purpose; the use of financial legal or other advisers to provide their names as directors or trustee; using the adviser as a financial intermediary, where this does not seem appropriate, requests by clients for investment management services (either foreign currency or securities) where the source of funds in unclear or not consistent with the client's apparent standing; formation of subsidiaries or branches in such countries where these do not appear necessary to the business; unusual transactions with companies registered overseas ..." (ICAEW, 1994; also see Auditing Practices Board, 1995). By claiming expertise in such fields, accountants secure niches and monopolies for themselves as they seek to act as agents of surveillance for the state.

Despite numerous legislative and scholarly attempts to define it, 'white-collar crime' remains a contested concept (Sutherland, 1940, 1945; Geis et al, 1995). It is often invoked to cover *inter alia* abuse of position, power, drug trafficking, insider trading, fraud, poverty wages, violation of laws, theft, exploitation and concealment, resulting in financial, physical, psychological damage to some individuals and a disruption to the economic, political and social institutions and values (Meier and Short Jr, 1995; Tunnell, 1993). Any more precise definition of 'white-collar crime' has proved elusive as new revelations and challenges have stretched the limits imposed by the established theoretical frameworks. As Box (1981 : 236-7) has observed,

> "theorists may be capable of drawing sharp conceptual lines between mafia-like organized crime, corporation crime and political corruption, but in real life these phenomena are so intertwined that it is not easy to see where the "bad guys" end and the "good guys" begin".

Since the late 1970s, a focus within criminology upon individual wrongdoers has been increasingly complimented by an appreciation of the social and organizational contexts of white-collar crime,

including the role of business organizations and professionals in criminal and antisocial actions. New vocabularies and categories have been introduced. For example, in the aftermath of the 1973-74 Watergate inquiry, attention focused on the institutional entities responsible for lawbreaking and the term 'moneylaundering' came into common usage (Gold and Levi. 1994). As finance capitalism has expanded, opportunities have increased for white-collar crimes such as moneylaundering (Calvita and Pontell, 1990) which were vividly exposed by the failure of the Bank of Credit and Commerce International (BCCI) . As the US Senate's report on the closure of BCCI commented, "BCCI's criminality included fraud .... involving billions of dollars; money laundering in Europe, Africa, Asia and the Americas; .... Among BCCI's principal mechanisms for committing crimes were its use of shell corporations and bank confidentiality and secrecy havens; layering of corporate structures; its use of front-men and nominees, guarantees and buy-back arrangements; back-to-back financial documentation among BCCI controlled companies; kick-backs and bribes, the intimidation of witnesses, and the retention of well-placed insiders to discourage government action" (Kerry and Brown, 1992, page 1). Such activities thrive on secrecy and the services of knowledgeable elites (Gold and Levi, 1994) and, as our case study shows, cannot easily be carried out without the (direct or indirect) involvement of accountants.

The emergence and scale of white-collar crime is, arguably, most plausibly understood as an historical and institutional phenomenon. However, white-collar crime laws, like much of the legislation in liberal democracies, are applied to individual persons. As we have already noted, this abstraction of the individual from the social context is also reflected in much of the criminology literature where white-collar crime is 'explained' as the product of 'deviant' individuals who are greedy, lacking self-control, etc. (see Morrison, 1995; Geis et al, 1995). This focus upon the personality of individual criminals may be of some help in differentiating those individuals who are most vulnerable to the attraction of activities that are defined as criminal. However, a focus upon the personalities of individuals also

obscures the extent to which institutional structures and norms provide both opportunity and motive for engaging in activities that are proscribed as criminal. A focus upon individual motives disregards the ways in which, for example, modern organizations, such as banks (e.g. BCCI), operate to facilitate the growth of white-collar crime, such as moneylaundering. As Kerry and Brown (1992) show, moneylaundering is not conceived by wicked individuals in some Dickensian 'den of crimes'. Rather it is planned, executed, minuted and concealed in clean, respectable, warm and well-lit city centre offices, by quiet men/women in smart clothes who do not raise their voices and keep a relatively low profile.

White-collar crime is perhaps best theorised as an activity that is increasingly undertaken by organized groups, corporations and elite occupations which operate within the values of capitalism which privilege competition and conflict. 'Bending the rules' is often regarded as a sign of business acumen (Coleman, 1994) or as stealing a march on a competitor rather than acting in a criminal way. *Ceteris paribus*, it is to be expected that white-collar crime will increase where pressures associated with promotions, prestige, status and rewards intensify and are increasingly linked to profits , securing markets, niches and meeting business targets. It may be hypothesised that much of the reported increase in white-collar crime in the 1980s and 1990s is connected with historical changes in the nature of capitalism in the Western world where profits are increasingly made from speculative ventures such as currency trading, takeovers, futures trading, land speculation, insider trading, beating exchange controls; or what might be called 'placing good bets'. Accompanying and amplifying these shifts has been an erosion of moral restraint and 'gentlemanly conduct' (so far as this ever existed). Any 'deal' becomes acceptable as long as it is profitable and, increasingly, the crime resides more in being caught than engaging in dishonourable or illegal activity. Indeed, 'smart' business activity resides in constructing mechanisms through which benefits are derived from illegal activities whilst escaping any (legal) responsibility for their operation. Through such activities little, if anything, is produced, but the gains are quick and large and can be made with anonymity.

THE AGIP COURT CASE[8]

In the late 1970s and early 1980s, AGIP (Africa) Limited, a company incorporated in Jersey[9] was engaged in drilling for oil in Tunisia, on its own behalf and in joint ventures with other companies under permits and concessions granted by the Tunisian Government. The Tunis branch held a US dollar account at Banque du Sud from which overseas suppliers were paid. Over a period of many years (since 1976), both before and after 1983 when accountants Jackson & Co. became involved in the matter (see below), AGIP was systematically defrauded of millions of dollars by its chief accountant, a Mr. Zdiri. Though not a director of the company or a signatory of any bank account, he was responsible for collecting invoices and matching them to the completed payment orders prior to obtaining approved signatures for the same. He was also responsible for banking. The court case revealed that Mr Zdiri had used his position to misappropriate the funds by altering the name of the payee on the payment orders after obtaining authorised signatures.

The court heard that between March 1983 and January 1985, Mr. Zdiri defrauded AGIP of US$10.5 million by altering some 27 orders which found their way to England. The payees were all companies registered in England and managed by Jackson & Co., based in the Isle of Man. Seven different companies, each holding a US$ account at a major branch of Lloyds Bank (a major British bank) were used in succession to receive the monies. However, AGIP did not bring a criminal case for fraud or even a case for the recovery of US$10.5 million or anything (said to be in excess of $17 million) dating back from 1976. Instead it took civil action under ‘law of trust’ to recover only the sum of US $518,822.92 (being the last of the diverted monies), paid on 7th January 1985 to Baker Oil Services (for details see below), on the ground that this was all that Jackson & Co. could reasonably afford to repay.

The case was defended by Mr. Barry Jackson and a Mr. Edward Bowers[10], who practiced as chartered accountants in Douglas, Isle of Man, under the name of Jackson & Co. The third defendant, a Mr. Ian Griffin, was an employee of the firm. Jackson & Co., it transpired, were acting on the instructions of a French lawyer, Monsieur Yves Coulon, who in turn was acting for principals whose identity is not known. The court noted that Jackson & Co. were introduced to the prevailing arrangements by Roger Humphrey of Thornton Baker (now Grant Thornton) who also provided the payee companies (see further details below). Each of the companies had a nominal share capital which was usually registered in the names of service companies provided by Jackson & Co. In each case, Mr. Jackson and Mr. Griffin were the directors and the authorised signatories on the company's bank account. Roger Humphrey was also a director and a signatory in the case of the first few companies. None of the companies had any assets or carried on any genuine business activity. In the case of each company, except that of Baker Oil, after two or three payments had been received and paid out, the account was closed and a new account opened for the successor company. Its predecessor was then put into liquidation and either Mr. Jackson or Mr. Bowers were appointed liquidator. All bank statements of the payee companies' showed the receipts to be derived from payments made by AGIP.

When a payment was received by the payee company, it was immediately transferred, usually on the same day, to another company, Euro-Arabian Jewellery Limited, which also maintained a US dollar account at the same branch of Lloyds bank. Euro-Arabian was registered in England with Mr. Jackson as one of its three directors. Jackson, Humphrey and Griffin were the authorised signatories of its bank account, with the agreement that either could act as a signatory in his own right. There is no evidence to show that Euro-Arabian carried on any genuine business activity. As soon as it received any payment from a payee company, it paid it out to parties located abroad. Most of the money went to Kinz Joaillier SARL, incorporated in France, which appears to be a subsidiary of Euro-Arabian Jewellery. Mr.

Jackson was a director of the company with Yves Coulon acting as its legal adviser. Coulon had no authority to operate the bank accounts of any of the payee companies or Euro-Arabian, but the bank's assistant manager, a Mr. Breeze, was authorised to disclose information about the accounts to him. Indeed, Coulon visited the bank during his travels to London and lunched with Breeze who believed Coulon to be the man behind all the arrangements. Breeze was told to expect payments of about US $500,000 per month from Tunis. When a payment was expected, he would be notified by Jackson & Co. Upon receipt of money, he would telephone Jackson & Co and inform them that the sums had been received. After a short interval, but usually on the same day (presumably after instructions from someone e.g. Coulon), upon Mr. Jackson's instructions, the monies would be paid out.

The case brought by AGIP centred on a payment to Baker Oil which was incorporated on 12 December 1984. Baker Oil[11] had authorised share capital of £2,000 with two shareholders and bank signatories who were also its directors. Mr. Jackson and Mr. Griffin held the entire issued share capital of £1 each. Baker Oil opened a US$ account at the same London bank branch on 17th December 1984. Just a day later, a Mr. Del Sorbo, an AGIP official had signed a payment order of US $518,802.92 in favour of Maersk Supply (Tunisia) Limited, payable at Morgan Guaranty Trust Company of New York. After the signature, the payment had been altered and made payable to `Beker-Service Cie' with the address of the London branch of Lloyds Bank and the correct number of Baker Oil's dollar account. The altered payment order was executed by Banqu du Sud on 7th January 1985. Jackson & Co. had already told Lloyds Bank to expect a payment and asked to be informed of its arrival. On 7th January Mr. Del Sorbo also became aware of the fraud as he visited Banque du Sud. He asked the bank to stop the payments, but due to time differences between London, Tunis and New York, payments had already been made and could not be reversed. The sum of US$ 518,822.92 was received to the account of Baker Oil and then transferred to the account of Jackson & Co (opened in March 1984), held at the same branch of Lloyds and Baker Oil's account was immediately closed. These transactions were confirmed in a letter to

Baker Oil. On 9th January 1985, the same amount was transferred to Jackson & Co's 'Client's' account at the Isle of Man Bank Limited. On 15th January, most of the amount[12] was paid out from this bank account to Kinz Joaillier SARL. Subsequently, Baker Oil, Euro-Arabian[13] and Kinz[14] were all put into liquidation. AGIP brought proceedings in Tunisia against Banqu du Sud and also sought to recover US$ 518,822.92 from Baker Oil (which no longer existed) and Jackson & Co.

During the court case, Jackson & Co. called no evidence, therefore, the court attached considerable importance to some documents presented to it. One of these related to the minutes (dated 22nd March 1984) of the first meeting of Keelward Limited, another of the payee companies[15]. The minutes noted that "the receipt of monies from Tunisia .... formed part of a long standing arrangement .... the arrangements resulted in the extraction of monies from Tunisia in circumvention of the Tunisian Exchange Control Regulations. In another document, a letter (dated 14 August 1984) addressed to Mr. Jackson by a firm of solicitors[16] noted that "Agip may be able to establish a cause of action by claiming that the payments were obtained by fraud. Agip could also rely on English law as the fraud would presumably have taken place within England, at the time when monies were transferred out of Agip's account into the account of the U.K. company. .... although Agip may be able to establish a cause of action, it would still be necessary for Agip to establish fraud (as defined under English law) for any action for the recovery of the monies to be successful ..... Because of the general principle of banking confidentiality, it would be extremely difficult for the Tunisian Government or Agip to obtain an order requiring Lloyds Bank to disclose banking transactions, unless disclosure is ordered by the English Courts .....".

On 19th May 1989, Mr. Justice Millett read out the following judgement (also see The Times, 20 May 1989, page 3; 5 June 1989, page 41) in the Chancery Division of the High Court.

> "Mr. Jackson and Mr. Griffin knew .... of no connection or dealings between the Plaintiffs and Kinz or of any commercial reason for the Plaintiffs to make substantial payments to Kinz. They must have realised that the only function which the payee companies or Euro-Arabian performed was to act as "cut-outs" in order to conceal the true destination of the money from the Plaintiffs .... to make it impossible for investigators to make any connection between the Plaintiffs and Kinz without having recourse to Lloyds Bank's records; and their object in frequently replacing the payee company by another must have been to reduce the risk of discovery by the Plaintiffs.
> ..... Mr. Jackson and Mr. Griffin are professional men. They obviously knew they were laundering money. .... It must have been obvious to them that their clients could not afford their activities to see the light of the day.

To recap, monies were being transferred from AGIP to Kinz Joaillier SARL via a number of other 'cut out' companies and bank accounts. In this process, accountants Jackson & Co. were found by the courts to have dishonestly assisted in the misapplication of funds[17]. In the following examination of this case, we are less concerned with the details of how these transfers were accomplished than with the connection between the AGIP case and two major firms of accountants - Grant Thornton and Coopers Lybrand. First, there is the role of a Grant Thornton partner in allegedly introducing Jackson & Co. to the scheme and facilitating the arrangements by initially providing the payee companies. Second, there is the role of the auditors of AGIP, Coopers and Lybrand, who did not appear to be aware of the fraud and issued an unqualified audit report on the AGIP's 1984 accounts.

The Grant Thornton Connection

The High Court case evidence included a 1984 Thornton Baker [Grant Thornton] invoice for 'acting as authorised signatory and in liaison between the owners of the company and the directors" (Mansell, 1989a). With this and other evidence the judge concluded that

> 'Jackson & Co. were introduced to the High Holborn branch of Lloyds Bank Plc. in March 1983 by a Mr Humphrey, a partner in the well known firm of Thornton Baker [now part of Grant Thornton]. **They probably took over an established arrangement**. Thenceforth they

> provided the payee companies... In each case Mr Jackson and Mr Griffin were the directors and the authorized signatories on the company's account at Lloyds Bank. **In the case of the first few companies Mr Humphrey was also a director and authorized signatory**' (our emphasis).

Grant Thornton senior partner, Michael Lickiss[18], acknowledged, "I don't think there is any doubt that Humphrey met this man [Yves Coulon], passed on instructions, did things for him" (cited in Mansell, 1989b; also see Mansell 1991c). As Grant Thornton became involved in this affair through Roger Humphrey, it is appropriate to examine this connection[19].

Before joining Grant Thornton, Roger Humphrey was employed during 1979/80 by Minet Financial Management Limited in London. This company had a subsidiary in Guernsey, Minet Trust Co. (International) Limited. Part of Minet Trust's business involved the handling of funds through trusts and other arrangements for wealthy clients who wished to keep their monies in secret "off-shore" tax havens such as Guernsey. In late 1979/80, Humphrey made a business trip to Guernsey. By chance he met the managing director of Minet Trust, Keith Corbin, in the street. Corbin was accompanied by Yves Coulon. At the end of the same day, Humphrey found that Coulon was on the same flight to London and sitting next to him. Humphrey understood that Coulon was a French lawyer. Coulon invited Humphrey to act as an intermediary, an offer which Humphrey accepted as it required him to pass on, rather than execute, the instructions. These instructions were dictated to Humphrey and Coulon did not put them in writing.

During the course of his dealings with Coulon, Humphrey became aware that payments were being received from Tunisia and that the amounts were placed to the account of various shelf-companies created by Minet Trust. The first such company, Humphrey recalls, was Anderfield Limited (incorporated in February 1980). Humphrey was not an officer of this company but became aware that funds received were transmitted onwards to various Bank accounts in France in accordance with Coulon's instructions. He also became aware that the arrangements were being operated for the benefit

of Sophie Ben Hassine[20], a prominent Tunisian. Humphrey understood that Ben Hassine had substantial funds which she wished to transfer to France via England and knew that although she lived in France, she did not wish to have her funds in France in her name. Humphrey did not consider anything to be unusual in these arrangements, as Minet Trust was engaged in the handling of funds off-shore for prominent and wealthy European clients.

Humphrey left Minet in November 1981 to join Tyndall Bank in London. At this point, he says that Coulon suggested that the existing scheme or arrangements should also move. Humphrey suggested the idea to John Botting, a director of Tyndall Trust International (IOM) Limited. Humphrey recalls that Botting and Coulon probably met without his presence; he is not sure what enquiries were made of the links with Coulon or Ben Hassine. Humphrey was not concerned since he was acting as a messenger/intermediary. During his employment at Tyndall, Humphrey also eventually met Ben Hassine.

On 14th December 1981, shortly after Humphrey had moved to Tyndall Trust, Euro-Arabian Jewellery Limited[21] was incorporated (originally under the name Boldford Limited) and Humphrey became an authorised bank signatory to its Bank account held with Midland Bank in London. Humphrey was also a signatory for Lenthorpe Limited and Palmerstone Limited and three further shell-companies (or 'cut-outs') created by Tyndall Bank. In his capacity as a signatory on the account of Lenthorpe Limited, Humphrey became aware, for the first time, that the funds in question were being remitted from AGIP (Africa) Limited.

In November 1982, Humphrey left Tyndalls and joined Thornton Baker (now Grant Thornton[22]). Once again, Coulon suggested that the schemes move with him. Humphrey was not certain whether this would be possible but soon became aware that Grant Thornton had a 'correspondent firm', Jackson & Co. in

Isle of Man who engaged in similar operations. In January 1983, Humphrey introduced Coulon to Barry Jackson, but for many months Coulon continued to pass his instructions to Jackson & Co. through Humphrey. Thereafter, Humphrey claims that Coulon dealt directly with Jackson & Co. and that May 1983 was the last time he was actively involved[23] in relation to instructing the Bank to effect transfers through another payee company, Windlist Limited, though it appears that Grant Thornton continued to charge fees to Jackson & Co. for 'acting as authorised signatory and in liaison between the owners of the company and the directors' (Accountancy Age, 28 February 1991, page 3; 2 May 1991, page 3). This arrangement ceased when, in the wake of the 1989 High Court judgement, Grant Thornton's senior partner, Michael Lickiss, announced[24] (on 30th October 1989) that in light of the judge's comments, the agreement between the firms and Jackson & Co. had been suspended.

Before commenting upon the connection between Grant Thornton and the laundering of money through Jackson Co, their 'correspondent firm', we turn to consider the auditors of AGIP, Coopers and Lybrand who seemingly failed to notice[25] that any of the 27 payment orders involving considerable sums of money had been altered. As the payment orders had been fraudulently altered, did the original suppliers not complain of non-payment? With original payments diverted, how did the suppliers get paid?

The Coopers & Lybrand Connection

Ever since its incorporation, AGIP (Africa) Limited had been audited by the Channel Islands based part of Coopers & Lybrand. In an affidavit dated *29th March 1985*, Coopers & Lybrand partner David Johnson explained that Coopers only became aware of the fraudulent payments in mid-January 1985. Johnson further recalls that

> "On 1st February 1985 ..... I returned a call from Barry Johnson, who had some years ago been

> the partner in an associated firm of Coopers & Lybrand but which association had ceased in the late 1970s. ..... he told me of the allegations of fraud and asked me whether we would confirm that a fraud had in fact been committed". Johnson was told that frauds could amount to US$ 8.4 million .

Johnson then added,

> "I now have the basic details of what occurred and I am aware of fraudulent payments made in 1983 and in 1984. **Indeed, I have now been asked to carry out an audit for 1984 as a matter of urgency and we are shortly to commence that audit** [our emphasis]".

However, at this juncture it should be noted that Coopers **had already concluded the 1984 audit and issued an unqualified audit report**[26] with the date *26 March 1985*. A 'letter of representation[27]' (dated 26th March 1985) obtained by Coopers from the AGIP Chairman and Vice Chairman in respect of the financial year ended 31 December 1984 noted that "Full provision has been made for financial losses in the Tunisian Branch arising from the misappropriation of funds". There is no such note in the representation letter relating to 1983. In contrast, the 1984 final accounts contained an extraordinary item of $7,078,384 described as 'the charge for financial losses incurred by Tunis Branch in 1984, which will form part of the basis for an insurance claim to be recovered in a future year. Perhaps, alerted by their internal discovery of fraud (in January 1985; see above), AGIP had already made provisions which were audited to enable Coopers to give an unqualified audit opinion? The AGIP accounts and available documents were examined by Richard Freeman, an expert witness and a partner in Casson Beckman, on behalf of Jackson & Co. In reports dated 9 and 30 March 1989, he challenged the efficiency of the audits carried out by Coopers.

CALLING THE REGULATORS

AGIP won the court case and Jackson & Co.[28] were required to repay the around $700,000 (the Baker Oil money plus interest) even though the monies had passed through various bank accounts[29] and

eventually reached Sophie Ben Hassine. However, no questions were asked of Grant Thornton or its partner Roger Humphrey. The quality of Coopers & Lybrand's audit was not questioned and nothing was asked of the involvement of Minet, Tyndalls Bank or any previous intermediary. Were any of these parties involved, even passively or innocently, in facilitating the moneylaundering operation?. In any event, the case raises questions about the involvement of accountancy firms in the AGIP case.

In an effort to raise such issues, one of the authors used a Parliamentary question to invite the Secretary of State for Trade and Industry to investigate the role of accountancy firms in money laundering. In response, the Minister of Corporate Affairs replied that he would be pleased to consider any case which is referred to him (Hansard[30], 30 January 1991. col. 523). As a consequence, he received a letter (12 February 1991) accompanied by a 'Law Report' from Financial Times (18th January 1991, page 36) and an article on the subject matter (Mansell, 1991b). The Minister's considered reply (28 February 1991) took the form of a letter that denied responsibility for such matters, arguing that it was either a criminal issue to be referred to the police or a matter of 'professional misconduct' to be taken up with the relevant accountancy body:

> "I have no power under the Companies Act to investigate the role of accountancy firms in this affair. Any question of their criminal involvement would be a matter for the police. The investigation of professional misconduct is a matter for the relevant professional body. ....
>
> I understand that the Institute of Chartered Accountants in England & Wales had noted the criticisms of one of its members made by the judge ..... and is making enquiries. However, the progress of the investigation at present delayed by the continuing litigation. The Institute is also aware of the unsupported allegations in the press about the auditors, and a report will be made to its investigation committee at its next meeting".

Since the Minister is directly responsible for corporate affairs which includes the regulation of accounting and accountants, he was then urged (8 March 1991) to set up an independent investigation, especially as the court judgement had ruled (see above) that accountants 'obviously knew they were

laundering money'. This was followed by a further letter on 22nd March which was accompanied by a copy of the affidavit by Coopers & Lybrand partner, David Johnson (see above), which seemed to be inconsistent with the date of the 1984 AGIP audit report and the expert witness's statement which questioned the efficiency of the audit. The Minister rejected calls for independent investigation and reiterated his contention that it was either a matter for the police or for the ICAEW :

> "The police may have been alerted by the recent press articles, which is the only information that I could have given them. If you wish to pursue this matter I suggest that you speak to the police to find out any action taken by them
>
> .... in view of the Court of Appeal's decision[31], the litigation is no longer regarded as an impediment to an investigation by the ICAEW, and that the ICAEW is in fact actively reviewing the role of members and member firms in the whole affair" (letter[32] dated 27 March 1991)[33].

Dissatisfaction with the Minister's approach was again communicated on 29th April 1991 when the demand for an independent enquiry was again made. Then the AGIP affair took an unexpected turn. In June 1991, Yves Coulon, the French lawyer and middleman in the moneylaundering schemes was due to give evidence in France to the Tribunal de Grand Instants in Paris, in relation to the criminal charges (no immunity of any kind had been given to him) associated with the AGIP theft. He never gave this testimony because he was murdered by a single bullet through the head. This murder occurred only a day before his supposed co-conspirator Sophie Ben Hassine was found guilty[34] of defrauding AGIP of $11.8 million (Mansell, 1991b). Coulon had feared that he would be murdered. He was therefore keen to put some information on the public record. In particular, he made the claim that

> "a former Conservative [UK] cabinet Minister still very prominent in politics .... was available to provide protection. ...a major organisation involved in the affair had the powers of 'a government'. They've got an important politician in England who is looking after their interests in this and he will make sure things won't get out" (Mansell, 1991b).

This claim[35] was presented to the Chairman of the Parliamentary Select Committee for Department of Trade and Industry, Sir Kenneth Warren [a member of the ruling Conservative Party]. He was urged (25th June 1991) to investigate the affair and the allegations. But despite sending a reminder on 9 August, no reply was forthcoming. The correspondence was not copied to other members of the Select Committee.

Having made no progress with the Minister of Corporate Affairs or with the Chairman of the relevant Select Committee, and in the light of the allegation about the involvement of a former Conservative Cabinet Minister, correspondence with British Prime Minister, John Major, was opened on 26th June 1991. He was informed of the alleged identity of the former Cabinet Minister and urged to launch an investigation. The Prime Minister followed the line provided by the Minister for Corporate Affairs, urging that "If you have evidence of wrongdoing the correct course is for you to pass it to the police" (letter dated 22 July 1991). Regarding the alleged involvement of a former Cabinet Minister, the Prime Minister remained silent. He neither confirmed it, nor denied it and would not say what investigations, if any, he had made. When reminded (9 August 1991) of his silence, he still avoided giving any direct reply but added,

> "The allegations are vague. If the suggestion is that a particular person, no matter who, is deliberately covering up criminal activity, then that is itself a criminal matter; as with the allegations of money laundering by accountancy firms, it is something for the police to investigate. ..... if you have evidence of wrong doing, the correct course is for you to pass it to the police" (letter dated 11 September 1991).

On 8 August 1991, a letter was sent to the Serious Fraud Office (SFO)[36] in which we urged the SFO to investigate the allegations against the former Minister and also role of accountancy firms in moneylaundering, especially in view of the High Court judgement. The SFO Director declined to investigate these issues and added,

> "..... our jurisdiction is limited to suspected offenses which took place in England and Wales and Northern Ireland.
>
> I understand that the Metropolitan and City Police Company Fraud Department conducted an investigation into allegations of fraud involving AGIP (Africa) Limited in 1985. A report outlining the results of the police investigations was sent to the Director of Public Prosecutions who advised that in his opinion there was insufficient evidence[37] to justify the institution of any criminal proceedings for offenses within the jurisdiction of the English Courts" (letter dated 4 September 1991).

Referring to the court judgement, the SFO Director added,

> "I do not regard the words of the Court of Appeal[38] in this respect, where they were considering the question of whether a constructive trust existed, as a sufficient basis to justify re-opening the investigation which was concluded in 1985 ..... I am empowered ..... to investigate any suspected offence of serious or complex fraud, this Office is able to investigate only limited number of cases. Of necessity we have to be selective in the cases which we accept
>
> .... I have been informed that the Institute of Chartered Accountants is actively reviewing the role of members and members' firms in this affair and expect to conclude their deliberations shortly".

In a letter dated 9 October 1991, the SFO's claims of not having jurisdiction were challenged[39]: the shell-companies were formed in England; the money was laundered through banks in England; two of the accountancy firms were based in England and it was the English High Court which judged that Jackson & Co 'knowingly' laundering money. Since the High Court had 'sufficient' evidence to reach a judgement Jackson & Co., how did the SFO come to conclude that the evidence was 'insufficient? Despite bringing these inconsistencies to the attention of the SFO (letter dated 18 October 1991), it would not budge from the position set out in its letter of 4 September.

In a letter to the Prime Minister (16 September 1991), we noted that the SFO claimed to have no jurisdiction for investigating the moneylaundering. Once again he was invited to say something about the alleged involvement of a former Cabinet Minister in moneylaundering. Although he would not be

drawn on this allegation, the Prime Minister added,

> "I understand that the authorities in the Isle of Man are currently considering complaints by a former employee of one of the auditing firms alleged to be implicated in the affair to see whether there are grounds for further action" (letter dated 7 October 1991).

When pursued, a spokesperson for the Isle of Man police indicated that

> "At the moment we are not doing anything. .... We are writing to [the director of] the Serious Fraud Office as we want to know who's dealing with it" (Accountancy Age, 24 October 1991, page 2).

On 18 November 1991, the Prime Minister again reiterated the view, first articulated by the Minister for Corporate Affairs, that it was up to the profession[40] to investigate the role of accountancy firms.

Correspondence with the ICAEW over this issue had been initiated during the previous month. The ICAEW replied by noting that it was considering the matter (letters dated 16 October 1991; 29 January 1992). Following an extended period of silence, a request for information about progress on this matter drew the response that "It is not the Institute's practice to make announcements on the conduct of an investigation in progress" (letters dated 28 May 1992; 26 June 1992; 21 July 1992). The silence from the regulators, including the ICAEW, continued during 1993 and into 1994. Correspondence was re-opened with the DTI and the SFO on 4th March 1994. The SFO Director replied on **17th March** 1994 and said,

> "..... I can confirm, from recent contact with the Institute. that they have recently concluded their consideration of this matter and have made a decision not to pursue the matter any further. No report will be sent by them to this office. .....[the SFO] would expect to receive a report only if the Institute found evidence of serious or complex fraud. It would seem, therefore, that none has been found as enquiries of the Institute have confirmed".

Seemingly, the SFO were happy for the ICAEW to decide whether evidence of 'serious or complex fraud' existed, regardless of the court judgement. However, the view that the ICAEW had concluded

their consideration of the case and had elected not to pursue the matter seems to be contradicted by a letter written by Minister for Corporate Affairs (**15 April 1994**) who informed us that "My officials are discussing the AGIP case with the Institute of Chartered Accountants in England and Wales, and I shall write to you again when these enquiries are complete" and then added, "I understand that the ICAEW are writing to let you know about the outcome of their investigation" (letter dated **9 May** 1994). Coincidentally, the ICAEW wrote on the same day :

> "It has been concluded that there is insufficient evidence available to the Institute to justify the bringing of a disciplinary case against any of its members.
>
> The Committee was fully aware of the comments made in the course of the civil proceedings. However, the test to be applied is not that used in civil proceedings but rather the standards used in criminal cases. A formal complaint cannot properly be preferred unless there is adequate evidence supporting the contention that the members concerned knew or ought to have known that the activity with which they were associated was illegal or that they were recklessly indifferent as to whether or not the activity was wrong. No compelling evidence to satisfy the test required has been obtained".

Seemingly, the ICAEW considered itself better placed to evaluate the evidence than the High Court judge who concluded that Jackson and Griffin were 'professional men' who 'obviously knew that they were laundering money...They must have realized at least that their clients might be involved in a fraud on the Plaintiffs'. Subsequently, all questions relating to the possible involvement of accountancy firms and a former Cabinet Minister in moneylaundering continued to be parried by the Department of Trade and Industry (Hansard, 29 June 1994) and the Prime Minister[41] by saying that the ICAEW has already investigated the matter[42] and that there was no basis for pursuing the issue further.

With a change of Ministers at the DTI, another attempt was made to persuade the Minister[43] for Corporate Affairs not only to investigate the matter, but to make a public statement about it, especially as neither the ICAEW nor any regulatory body had published any report. Indeed, none had made reference to the existence of any report since the AGIP court decision in 1989. In response (14 January

1995), the Minister of Corporate Affairs confirmed that he and his officials had seen a report by the ICAEW which, as we have already noted, claimed that there was insufficient evidence. However, few other people have had sight of this report or, relatedly, the opportunity to scrutinise its contents and the basis for its conclusions. The ICAEW has claimed (letter dated 31 March 1995) that "Mr. Jackson's representations[44] were taken into account when preparing the report ..." but the failure to make this report available makes it impossible to assess this claim[45]. Despite requests (19th June 1995; 4th August 1995), the Prime Minister and the Minister of Corporate Affairs have been unable (letter dated 28th July 1995; 7th September 1995) to refer us any statutory basis which empowers the ICAEW to interview witnesses, demand evidence and investigate[46] cases of moneylaundering.

CONCLUDING REMARKS

Money laundering, like much other white-collar crime, is often a furtive and murky affair in which central characters often do not wish to talk and some of the details remain incomplete. It is often assumed to be the work of 'bent' individuals who are exceptionally devious and dishonourable. However, as our case study illustrates, it is facilitated by professionals (e.g. accountants) who are able to form nominee companies and create a bureaucratic labyrinth which impedes the tracing of the illicit transactions. In the case of AGIP, the fraudulent payments passed through Tunisia, England and France, with shell companies often obscuring the origins and destination of illicit funds. The money laundering activities were allegedly circumventing exchange controls, though curiously AGIP did not seek to recover all the full amounts that passed through the offices of Jackson & Co.

Our correspondence revealed that UK regulators were aware of the possibility of illicit transfers of monies as far back as 1985. None presented their findings to the courts. Nor did they publish any reports either before or after the court case. The role of other accountancy firms has not been investigated.

When reminded of these aspects of the case, each of the regulators deemed it to be a matter for some other body. When the ICAEW eventually produced a report on the matter that allegedly found no hard evidence of misconduct, the other regulators were able to point to this conclusion, and thus legitimise their inaction by referring to something which has been unpublished and not furnished for any Parliamentary scrutiny. How is this evidence to be interpreted?

One possible interpretation is that every assessment made by each regulator at every stage - from the judgement in the court to the alleged ICAEW report - was entirely in accordance with the law. Jackson & Co. may have been judged to have knowingly facilitating moneylaundering. In contrast, the activities of other accounting firms associated with the AGIP amounted to no more than very marginal involvement or minor incompetence which did not merit further investigation. If this interpretation is accepted, then we submit that fundamental questions need to be asked about how the regulators operationalize and interpret the law. Mr Jackson and Mr Griffin were extraordinarily naive if they did not realize that they were engaged, on behalf of their client, in laundering money. But by the judges own account, Jackson & Co. 'probably took over an establishment arrangement', yet regulators and the process of law had not been applied to other parties.

Another interpretation is that those associated with the AGIP case were effectively protected from criticism and possible prosecution by the reluctance of regulators to act. The silence of the regulators is thus interpreted as further evidence of an indulgent relationship between the UK state and major accountancy firms (Sikka et al, 1992; Mitchell et al, 1994; Sikka and Willmott, 1995). Their reluctance to investigate the activities of banks and accountancy firms and make their findings public means that we know more about the life and affairs of Kalahari bushmen than about the affairs of Minet, Tyndalls, Grant Thornton, Coopers & Lybrand or other major accountancy firms[47]. Whilst anxieties about the reputation of the City recurrently produce new pieces of legislation, a continuing reliance upon forms of

self-regulation makes it unlikely that any strenuous effort will be made to investigate the involvement of major firms in moneylaundering.

Challenging the well established secrecy of the business world requires action from pressure groups and social movements, and scholarly research. Through such actions, an environment may be created to problematise established practices and associated privileges. However, unless accompanied by a challenge to the power and secrecy favoured by the alliance of government and the business sector, such efforts are unlikely to bear fruit. We conclude the paper by urging scholars to research the antisocial and predatory actions of accountancy firms and the role played by them in white-collar crime. Such studies have a potential to enrich our understanding of the way power and accountability is exercised by accountancy firms and major organizations. By providing further evidence of the relationships between accountancy profession and the state and illuminating the ways in which regulation is practically administered, it is possible to stimulate and inform a process of wider debate about the adequacy of existing forms of regulation and the accountability of the regulators.

APPENDIX 1

Who's Who

Name	Details
Sophie Ban Hassine	A prominent Tunisian. Assumed grand-daughter of the Bey of Tunis
Edward Bowers	Partner, Jackson & Co, chartered accountants.
Mr. Breeze	Assistant manager, Lloyds Bank, High Holborn, London.
Yves Coulon	French lawyer and middleman
Carlo del Sorbo	An AGIP official
Richard Freeman	Partner, Casson Beckman. Acting as an expert witness.
Ian Griffin	Employee, Jackson & Co.
Roger Humphrey	Tax manager, Grant Thornton (previously known as Thornton Baker)
Barry Jackson	Partner, Jackson & Co, chartered accountants
Jackson & Co.	Chartered accountants, operating from the Isle of Man.
Kinz Joaillier SARL	A company incorporated in France, and a subsidiary of Euro-Arabian Jewellery.
David Johnson	Partner, Coopers & Lybrand
Lloyds Bank	A major British commercial bank
John Major	British Prime Minister
Philip Monjack	Chartered accountant and an insolvency expert, partner in Leonard Curtis, appointed as liquidators for Euro Arabian Jewellery Limited.
Sir Kenneth Warren	[Then] Conservative MP and Chairman of the House of Commons Trade and Industry Select Committee
Mr. Mongi Zdiri	Chief Accountant, AGIP (Africa) Limited

ENDNOTES

1. 'Missing £9.8m after ITN audit', Accountancy Age, 28 March 1991, page 2; 'US writ alleges fraud in toy company accounts', Accountancy Age, 18 November 1992, page 2; 'Arrests follow £1 billion mortgage fraud probe', The Observer, 10 April 1994, page 5; '19 charged in £100 million mortgage fraud probe', The Mail on Sunday, 10 April 1994, page 73; 'Bank official quits after $7.8m fraud', The Business Observer, 29 May 1994, page 3; 'Imro probes adviser's role in alleged fraud', Financial Times, 7 June 1994, page 9; 'Bribes scandal hits the Bourse', The Observer', 19 June 1994, page 7; 'Art outlet for money laundering', The Guardian, 1 December 1994, page 18; 'Pharmacy fraud may cost millions', The Guardian, 1 December 1994, page 18; 'Bank Chief held in fraud inquiry', The Times, 3 December 1994, page 2; 'Money laundering in property feared', Financial Times, 6 December 1994, page 8; 'Crashed holiday firm's bogus bills'. Financial Mail on Sunday, December 18, 1994 page 2; 'CBS staff accused of scam', The Times, 25 July 1995, page 25; 'Belling pension fraud solicitor given nine years', The Times, 26 January 1996, page 21).

2. 'Accountants to face trial, Accountancy, June 1992, page 14; 'Investors to sue after CKL man's conviction', Accountancy Age, 23 May 1991, page 1; 'Chartereds on insider dealing charges', Accountancy Age, 1 July 1993, page 1; 'Accountants guilty in Homes Assured fraud', Accountancy Age, 2 September 1993, page 3; 'Grilling for Clark Whitehill over fraud', Accountancy Age, 28 October 1993, page 1; 'Trainee in £500,000 bank fraud', Accountancy Age, 11 November 1993, page 2; 'Trial opens for six on charges of tax fraud', Accountancy Age, 13 January 1994, page 1; 'Firm sued over missing funds', Accountancy, January 1995, page 14.

3. To put this into some kind of perspective; the 1993 Gross Domestic Product of United Kingdom was £546.1 billion (Central Statistical Office, 1995).

4. The term moneylaundering was `coined' to describe the transfer of funds of dubious or illegal origins, usually from another country, and then later to recover the same from what appeared to be a legitimate (or clean and laundered) source. However, this formulation is not uncontested as there are disputes in relation to intentions and purposes. For example, the moving of money in violation of the established laws by [Western] intelligence services (e.g. through BCCI) for covert operations tends to be seen as `patriotic' and `facilitating the national interest' (Gold and Levi, 1994 page 2) whilst the same activities by others are often dubbed criminal. Bingham (1992) states "Money-laundering means transmitting illicit funds through the banking system in such a way as to disguise the origin or ownership of the funds" (page 25).

5. And also lawyers and financial advisers.

6. A wholly owned subsidiary of Agip SPA of Milan, the Italian oil company, itself a subsidiary of ENI, the Italian state holding company.

7. Scholarly research is also part of the process of pressure group activity and can be mobilised by competing groups to demand different kinds of change.

8. The case involves a number of parties and keeping track may well be mesmerising. The reader would find it useful to regularly refer to Appendix 1 for a brief idea of the parties

involved.

9. Jersey, Guernsey and Isle of Man are British, but not part of Britain. They enjoy the status of self-governing dependencies of the British Crown, but Britain is responsible for their Defence and foreign affairs. The island are tiny, but a large number of multinational companies are based there to avoid taxation in their host countries . Corporate laws in these islands are relatively lax. Secrecy is preferred to public accountability (Grey, 1994; Yule, 1994; also see The Register, Autumn 1993, pages 8-10).

10. The case did not find anything against him.

11. Baker Oil was a successor to another payee company Parkfoot Limited, which had been put into liquidation on 6th December 1984 shortly after receiving and paying out to Euro-Arabian on the same day a sum of US$502,458.33.

12. The details are as follows: US$400,000 to Kinz; US$ 70,000 to (so far an unidentified) Mr. Chouck ben Abdeaziz; US$ equivalent of FF 34,330.70 to M. Coulon.

13. Leonard Curtis partner, Philip Monjack was nominated liquidator by AGIP on 13 May 1983. In a circular dated 24 May 1990, he advised creditors of Euro Arabian Jewellery Limited that "the main asset of this company was a debt due from a French subsidiary, Kinz Joaillier". The letter is accompanied by a Liquidator's Account of Receipts and Payments from 13 May 1983 to May 1990. It shows total realisations i.e. cash at bank of £357.94 and disbursements of £357.94.

14. Kinz was placed into receivership on 17th July 1985 and then into liquidation on 17th March 1986. The French liquidators informed Philip Monjack that "there will be no funds available for the unsecured creditors, and accordingly there can be no distribution to the creditors of Euro Arabian Jewellery Ltd" (a circular dated 24 May 1990, from Philip Monjack to the creditors of Euro Arabian Jewellery).

15. The meeting took place at the offices of Jackson & Co. At this meeting Mr. Jackson and Mr. Griffin were appointed directors. The minutes were signed by Mr. Jackson.

16. The letter is written by a Mr. Smyth, a partner in the firm of Knapp-Fishers.

17. There are also allegations of political skulduggery. In a sworn affidavit presented for their appeal Jackson & Co. argued that "the monies paid by AGIP to the said English Companies were monies in fact intended to be received by Madam Bourguiba, the wife of the then President of Tunisia and that to protect her and themselves when the said payments were discovered .... the Plaintiffs made the alleged alteration themselves to provide an alibi for the said Madam Bourguiba" (also see Mansell 1991a, 1991b and an article in French magazine Jeune Afrique Economie, Sept/Oct 1986, pages 59-63). However, no hard evidence to support such allegations has been presented to the courts.

18. Michael Lickiss was the 1990-91 President of the Institute of Chartered Accountants in England & Wales. He (and other Grant Thornton partners) had close connections with the Department of Trade and Industry (DTI) as evidenced by their appointment(s) as inspectors

(Sikka and Willmott, 1995). In 1991 Michael Lickiss was knighted for his services to accountancy.

19. This section draws from the High Court judgement, Mansell 1989a, 1989b, 1991a and 1991c. These have been based upon and supplemented by a 'proof of evidence' drawn up by Roger Humphrey in the presence of Grant Thornton solicitors.

20. For further information about her involvement see Mansell 1991, 1991b and an article in French magazine Jeune Afrique Economie (Sept/Oct 1986).

21. Information at Companies House shows the company's number to be 1603703. In December 1981, its directors included John Botting with Tyndall Trust International (I.O.M) Limited acting as Secretary. On 1st July 1983, Botting was replaced by Barry Jackson. On 14th February 1985, Jackson resigned and Ian Griffin became a director.

22. In relation to money laundering, a Grant Thornton partner advised accountants to be "suspicious and look out for transactions that do not fit the expected pattern: to be alert to unusually large or irregular contributions to pensions, to unnecessary granting of power of attorney, or unwillingness to disclose the source of funds" (Accountancy, October 1994, page 18).

23. Humphrey and Coulon were reported to be friends and their children shared holidays (Mansell, 1989b).

24. As per Grant Thornton's internal Bulletin number 89 - 32.

25. Following Coopers & Lybrand (1984), one might have expected the auditors to be 'put upon enquiry' through third party circularisation, examination of correspondence between AGIP and its 'true' creditors and by matching supplier statements to client records.

26. The audit report read as follows:

AUDITORS' REPORT TO THE MEMBERS OF AGIP (AFRICA) LIMITED

We have audited the accounts on pages 2 to 12 in accordance with approved auditing standards. The accounts have been prepared under the historical cost convention,

In our opinion, the accounts give a true and fair view of the state of affairs of the company at 31 December 1984 and of its loss and source and application of funds for the year then ended.

Jersey 26 March 1985 Coopers & Lybrand
Chartered Accountants

27. The purpose of such a letter is explained in Auditing Practices Committee, 1983.

28. The firm went out of business as Barry Jackson was unable to obtain professional

indemnity insurance.

29. Notably, AGIP did not seek to recover the whole amount it claims to have been defrauded of, but only sought to recover $518,822.92 on the ground that this was all Jackson could afford to repay. Is it unusual for a Plaintiff to seek to recover only 5% of the alleged losses?

30. Hansard is the official written record of all the proceedings in the British House of Commons.

31. Jackson & Co. appealed against the court judgement by arguing that they merely took over on-going arrangements and schemes and were thus not really guilty. They also argued that payments through AGIP were voluntarily "made to the UK companies to circumvent Tunisian Exchange Control Laws" (court affidavit by Jackson & Co.). The appeal was lost (see *AGIP v Jackson & Co (1991) 1 Ch. 547*; also see Financial Times, 18 January 1991, page 36).

32. The letter contains a hand written note by the Minister (selected Cabinet papers are open to public scrutiny after a gap of 30 years, they are unlikely to contain notes scribbled on letters by Ministers) saying "I have recently seen a transcript of your talk to the East London Business School. You have no evidence that I condone corruption and fraud - the record of the DTI in recent years shows that we are keen to tackle it wherever there is evidence to pursue cases". How the Minister came to be in position of the transcript is not clear as the 'talk' was only open to staff and students. The transcript subsequently became the basis of Mitchell and Sikka, 1993.

33. In a letter dated 8 April 1991, the Minister again asserted that the ICAEW was "reviewing the role of members and member firms in the whole affair".

34. She was sentenced to three years jail, but released immediately on account of the time already spent in custody (Accountancy Age, 20 June 1991, pages 2 and 13). Her subsequent whereabouts are unknown (Private Eye, 22 September 1995, page 14).

35. Coulon was murdered before he could provide hard evidence.

36. For a discussion of the role, powers and purpose of the SFO see Widlake, 1995.

37. This fact was not known during the High Court case where AGIP sought civil rather than civil and/or criminal remedies.

38. It is appropriate to recall that the judge said that 'Mr. Jackson and Mr. Griffin are professional men. They obviously knew they were laundering money'.

39. Indeed, it appears that Britain's most senior law enforcement officer took an interest in the case. Sir Nicholas Lyell, the Attorney General stated that the "Police reports are confidential and it was never anticipated that the 1985 report to the Director of Public Prosecutions by the Metropolitan and City Police Company Fraud Department would be published" (letter dated 13 July 1994). The court was not informed of the existence of this report.

40. When later challenged on the profession's inability to take action against multinational

accountancy firms (see Mitchell et al, 1994; Sikka and Willmott, 1995), the Prime Minister wrote a three page letter (7 February 1992), defending the auditing industry and its regulators. It drew a three page response (20 February 1992) from Austin Mitchell MP after which the Prime Minister did not wish (letter dated 9 March 1992) to enter into any further correspondence.

41. In response to two questions from Austin Mitchell MP, the Prime Minister replied, "As the honourable Gentleman will be aware the Institute of Chartered Accountants in England and Wales (ICAEW) investigated allegations of misconduct on the part of its members and concluded that there was insufficient evidence to justify bringing a disciplinary case against them" (Hansard, 27 June 1994).

42. It was alleged that some of the individuals and organizations involved in this affair were connected with intelligence services. This was put to the Prime Minister on 20 June 1994, but he would not be drawn on it and added, "Successive Governments have refused to provide information on alleged operations of the security and intelligence services, and I have made it clear that the Government will maintain this policy" (letter dated 3 August 1994).

43. The AGIP affair was also briefly raised with the Minister during a meeting on 5th December 1994. Present at the meeting were Austin Mitchell, Prem Sikka, Hugh Willmott, Tony Puxty, Jonathan Evans (then Minister for Corporate affairs) and three civil servants.

44. These consisted of earlier correspondence between the ICAEW and Barry Jackson in which Jackson argued that he had merely continued with on-going arrangements and schemes passed on to him by Roger Humphrey of Grant Thornton.

45. Barry Jackson, for example, was not aware of this report and was not invited to comment on any draft of its contents (Mansell, 1995). No information of any kind has been sought from Ian Griffin who claims to have 20,000 pages of evidence showing the involvement of other parties.

46. In its letter of 31 March 1995, the ICAEW stated that "The Institute has no statutory power to investigate criminal offences but, under its Bye-laws, is entitled to consider whether a member has brought discredit on himself or the profession of accountancy".

47. These problems are further compounded by the secrecy afforded to accountancy firms, who in the UK are not required to publish any information about their affairs. Whilst a requirement to open up this sector to public scrutiny may help, accountancy firms have been able to shelter behind their partnership structures to deny information to regulators (Kerry and Brown, 1992), often by arguing that information about their clients is confidential. Such secrecy as we noted in the AGIP case can conceal the involvement of accountancy firms and their clients in money laundering. The privileges of accountancy firms need to be challenged by requiring them to publish information and making their working papers available to regulators and the public for scrutiny (Mitchell and Sikka, 1996).

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