

ASSOCIATION OF PACIFIC ISLAND FIUS

TYPOLOGIES TEMPLATE

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| COUNTRY: | FIJI |
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BRIEF BACKGROUND ON THE AML FRAMEWORK:

The Fiji Financial Intelligence Unit is a statutory agency of Government that was established in 2006 under the Financial Transactions Reporting (FTR) Act. The FTR Act and Regulations outlines a range of requirements for financial institutions to implement in order to prevent the use of Fiji's financial system from money laundering activities and other serious offences.

The Fiji FIU is resourced with eight permanent staff and three staff on secondment from the FIU's partner agencies (Fiji Police Force and Fiji Revenue & Customs Authority). The Fiji FIU, through its Memorandum of Agreement with other relevant agencies has access to six databases. Having access to these databases contributes to efficient and effective development of intelligence and dissemination of case reports to the relevant law enforcement agencies.

Money Laundering in Fiji is criminalised under the Proceeds of Crime Act (POC) and Mutual Legal Assistance under the Mutual Assistance in Criminal Matters Amendment Act. The maximum penalty for a money laundering offence under the Proceeds of Crime Act is an imprisonment term of 20 years or a fine not exceeding \$120,000 for individuals and a maximum fine of \$600,000 for legal entities.

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CASE STUDY 1 - THE “TURTLE ISLAND RESORT” CASE: FORGERY, FRAUD, MONEY LAUNDERING AND NON-CONVICTION BASED FORFEITURE

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| Possible Offence including predicate offence to money laundering | <ul style="list-style-type: none"> • Conspiracy to defraud • Forgery • Uttering • Obtaining on forged documents |
| Type of Entity Involved | 1 Business Entity 6 Individuals |
| Amount Involved | \$840,000 |
| Financial Services | Commercial Bank |
| Money Laundering Typology | Use of a shell company Use of family members and associates Use of multiple bank accounts Purchase of high value assets |
| Jurisdiction | Domestic and International |

CASE SUMMARY:

This case involved a syndicate of money launderers who colluded to hide ‘illegal funds’ that was acquired in a fraudulent scheme involving the alteration of company cheques belonging to the Turtle Island Resort, a luxury resort in Fiji.

The main suspect in the case, **Mr. Anand Kumar Prasad** (aged 27 at the time of the fraud) was employed as the accountant at SPOR (Fiji) Ltd T/A Turtle Island Resort. During his term of employment, between May 2006 and January 2008, he fraudulently altered cheques that were being issued by the resort for the payment of its expenses. A total of **84 cheques amounting to FJ\$840,000 (equivalent of US\$478,000)** was fraudulently converted and deposited at local commercial banks.

Mr. Anand Kumar Prasad was personally recommended by his sister, **Ms. Shirley Sangeeta Chand**, to the resort owner, Mr. Richard Evanson for his employment at the Resort.

Ms. Shirley Sangeeta Chand (aged 29 at the time of the fraud) was a Senior Prime Banker at ANZ Bank. She usually provided banking services to Mr. Richard Evanson because the business bank account of SPOR (Fiji) Ltd T/A Turtle Island Resort was held at ANZ Bank. **Mr. Anand Kumar Prasad** was a former employee of ANZ Bank.

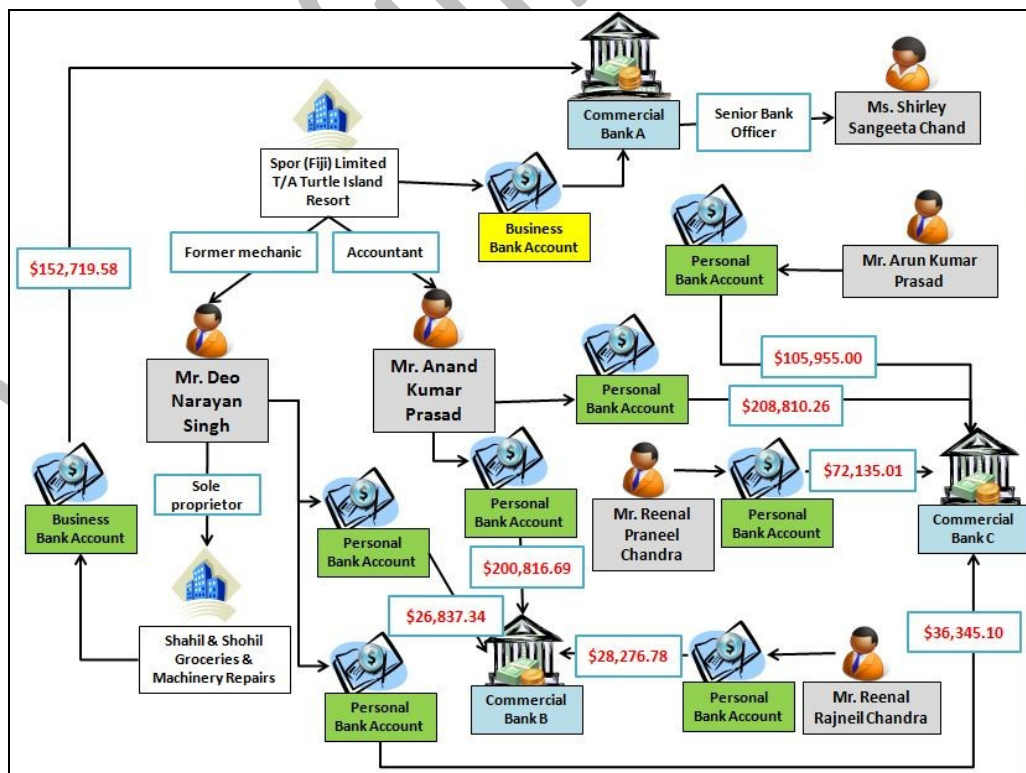
Mr. Anand Kumar Prasad had direct access to the cheque books of the Resort and was aware that cheques for less than \$10,000 would not be scrutinized by the management of the company. As part of the money laundering planning, **Mr. Anand Kumar Prasad** also arranged with his friends to open bank accounts or to use existing accounts as a conduit for the fraudulently altered cheques after he changed the payees names and increased the sums payable.

1. FORGERY OF CHEQUES

Seventy five (75) cheques totalling \$679,176.18 were fraudulently obtained by **Mr. Anand Kumar Prasad** and made payable to himself, his brother (**Mr. Arun Kumar Prasad**) and his associates (**Mr. Deo Narayan Singh**, **Mr. Reenal Praneel Chandra** and **Mr. Reenal Rajneil Chandra**). These cheques of the resort were stolen by **Mr. Anand Kumar Prasad** and he forged the signature of Mr. Richard Evanson onto the cheques. The cheque amounts were ranging between \$3,000 to \$10,000 but most of the figures were just below \$10,000.

2. ALTERATION OF THE CHEQUES

Nine (9) cheques that were written by the resort for the payment of general services were altered to the value of \$152,719.58. These cheques were deposited into the business bank account of **Shahil & Shohil Grocery & Machine Repairs**. This business was a shell company established by Mr. Anand Kumar Prasad’s associate, Mr. Deo Narayan Singh, to launder the proceeds from this fraudulent scheme.



The criminal proceeds that were credited to the respective Commercial Bank accounts were withdrawn immediately for similar credit values. These withdrawals were made in the form of cash and bank cheques to purchase 6 motor vehicles and a residential property.

3. FORFEITURE AND PROSECUTION

3.1. NON-CONVICTION BASED FORFEITURE

Since a number of tainted assets had been identified, the Director of Public Prosecutions Office successfully filed a restraining order in April 2010 for the following 'tainted property':

- A silver coloured Toyota Liteace motor vehicle registered under **Mr. Anand Kumar Prasad**;
- A brown coloured Toyota Hilux motor vehicle registered under **Mr. Anand Kumar Prasad**;
- A green coloured Toyota Hilux motor vehicle purchased for \$23,500 registered under **Mr. Deo Narayan Singh**;
- A Honda CRV motor vehicle registered under **Mr. Anand Kumar Prasad**;
- A metallic blue Nissan Sunny motor vehicle purchased for \$10,000 registered under **Mr. Anand Kumar Prasad's mother, Mrs. Bhagwati Prasad**;
- A Toyota Corolla motor vehicle purchased for \$24,000 registered under **Ms. Shirley Sangeeta Chand**;
- The sum of \$5,191.01 maintained in a local bank account belonging to **Mr. Anand Kumar Prasad's brother, Mr. Arun Kumar Prasad**; and
- A real property purchased for \$142,000 that was subsequently registered under **Mr. Anand Kumar Prasad's friend**.

On 10 September 2010, the DPP's Office successfully obtained a civil forfeiture (non-conviction based) order on the above-mentioned tainted property that was forfeited to the State.

3.2. PROSECUTION

On 15 April 2011, the court proceedings in the High Court of Fiji for the criminal case of **Mr. Anand Kumar Prasad** and others commenced.

On 19 April 2011, **Mr. Anand Kumar Prasad**, his sister **Ms. Shirley Sangeeta Chand**, two brothers, **Mr. Reenal Praneel Prasad** and **Mr. Reenal Rajneil Chandra**, **Mr. Deo Narayan Singh** and his wife, **Mrs. Atishma Kirti Singh** were convicted for conspiracy to defraud, forgery, uttering, obtaining on forged documents and money laundering.

3.3. SENTENCING

- **Mr. Anand Kumar Prasad** was convicted for conspiracy to defraud, 4 counts of uttering, 4 counts of obtaining money by virtue of forged documents, 4 counts of

causing money to be paid by virtue of a forged document, 5 counts of money laundering and 11 counts of forgery. He was sentenced to 6 years imprisonment.

- **Mr. Reenal Praneel Chandra** was convicted for conspiracy to defraud, 1 count of forgery and 1 count of obtaining money by virtue of forged documents. He was sentenced to 2 years imprisonment.
- **Mr. Reenal Rajneil Chandra** was convicted for conspiracy to defraud and 1 count of obtaining money by virtue of forged documents. He was sentenced to 2 years imprisonment.
- **Mr. Deo Narayan Singh** was convicted for conspiracy to defraud, 1 count of forgery, 3 counts of causing payment of money by virtue of a forged document, 1 count of obtaining money by virtue of a forged document and 3 counts of money laundering. He was sentenced to 4 years imprisonment.
- **Ms. Shirley Sangeeta Chand** was convicted for conspiracy to defraud and was sentenced to 4 and ½ years imprisonment.
- **Ms. Atishma Kirti Singh** was convicted for conspiracy to defraud and 1 count of money laundering. She was sentenced to 2 years imprisonment.

4. CHALLENGES

Any successful case would not near completion without challenges faced by the parties associated in dealing with the case.

Similarly, the Fiji Turtle Island Resort case took almost three years for a successful conviction and there were certain impediments faced by the relevant agencies involved.

4.1. Feedback To Commercial Banks

Commercial Bank A was acting on behalf of SPOR (Fiji) Ltd T/A Turtle Island Resort and was concerned with recovering of the proceeds from the fraudulently converted cheque scheme.

There was lack of feedback from the Fiji Police Force investigating officer to Commercial Bank A on the progress of the investigations. Commercial Bank A had to continuously follow up with AML Unit & POC Unit on the investigations since they were directly affected by the fraud.

4.2. Some Reluctance In Charging One Suspect

During the early stages of the investigations, there was setback experienced in the laying of charges against one of the key suspects, namely, **Ms. Shirly Sangeeta Prasad** who was a key player in committing the fraud at Commercial Bank A. Infact there was some initial

reluctance in charging **Ms. Shirly Sangeeta Prasad** for “conspiracy to defraud” and for money laundering.

4.3. Non-Conviction Based Forfeiture Ruling & Disposal Of Forfeited Assets

This case involved the biggest number of tainted assets for any money laundering case and although these assets were successfully restrained, it was challenging to file a civil forfeiture order on these assets. Civil forfeiture was still fairly new to the State Prosecutors in 2008-2009 so there was some reluctance to apply for this order before the High Court which resulted in some delay of this process.

After the ‘tainted properties’ were restrained, there was no effective management of these assets because there were no standard operating procedures in place for orders successfully executed under the Proceeds of Crime Amendment Act 2005. Therefore, the relevant agencies were not fully aware of their role in the effective management of the restrained assets.

4.4. Precedence Set In Money Laundering Sentencing

The maximum penalty of a money laundering offence is 20 years under the Proceeds of Crime Act 1997, however Fiji’s first successfully money laundering conviction (O’Keefe v State) 2007 AAU 0029.2007, set a precedence of 5 years whereby the accused, Mr. Timothy Aaron O’Keefe was handed this sentence.

Therefore, **Mr. Anand Kumar Prasad** was sentenced for a term of 6 years for each money laundering offence to be served concurrently with the conspiracy sentence. Considering the nature of fraudulent activity, this sentence may not have been truly justified. If **Mr. Anand Kumar Prasad** was to be charged on a stand alone offence of money laundering without being charged in conjunction with other offences, the sentence could range between 8-12 years.

Only three of the six suspects were charged for money laundering while there were other parties who also aided and assisted in this fraudulently converted cheques scheme.

CASE STUDY 2: THE FIJI HONEYMOON BEACH RESORT MONEY LAUNDERING CASE

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|---|---|
| Possible Offence including predicate offence to money laundering | <ul style="list-style-type: none"> Causing payment of money by virtue of forged instrument |
| Type of Entity Involved | 1 Business Entity 1 Individual |
| Amount Involved | \$272,220.00 |
| Financial Services | Commercial Bank |
| Money Laundering Typology | Use of a shell company Purchase of high value asset |
| Jurisdiction | Domestic and International |

CASE SUMMARY:

This money laundering case was referred to the FIU as Suspicious Transaction Reports (STRs) by three different commercial banks in February 2004 and August 2005. The three commercial banks reported on **Salendra Sen Sinha** and **Honeymoon Beach Resort Limited**. **Salendra Sen Sinha** an unemployed Fijian national established a shell company called **Honeymoon Beach Resort Limited** with the nature of business being general resort development and accommodation.

Honeymoon Beach Resort Limited was registered for tax with the Fiji Tax Authority; however the business had not lodged any Value Added Tax (VAT) returns since its establishment.

An employee of the Fiji Tax Authority colluded with **Salendra Sen Sinha** to defraud the Tax Authority. The employee stole and gave **Salendra Sen Sinha** two genuine VAT refund cheques that were legitimately raised by the Fiji Tax Authority to two tax payers in June 2005.

Salendra Sen Sinha altered the “payee” to read **Honeymoon Beach Resort Limited** and the “amounts” on the two cheques to the total value of \$272,220.00. The fraudulently altered cheques were deposited into the bank account of **Honeymoon Beach Resort Limited** in August 2005.

On the same day that **Salendra Sen Sinha** deposited the altered cheques into his account, he was able to withdraw cash totaling \$272,000.00 and purchased a motor vehicle at a price of \$105,000.00. A freezing order was placed on the balance of funds that remained in the business bank account of **Honeymoon Beach Resort Limited**.

The Fiji Tax Authority's business bank account is maintained at Commercial bank 2 (Bank 2) while **Honeymoon Beach Resort Limited** maintained its bank account at Commercial Bank 3 (Bank 3).

The predicate offence involved “**causing payment of money by virtue of forged instrument**” with the altering of the “payee” and “amounts” on the two cheques and by unlawfully withdrawing the laundered funds.

On 29 October 2010, **Salendra Sen Sinha** was convicted of 2 counts of causing payment of money by virtue of forged instrument and 1 count of money laundering. He was sentenced to a concurrent term of 2 years imprisonment

The sum of \$85,000.00 maintained in the business bank account of **Honeymoon Beach Resort Limited** was forfeited and ordered by the Court to be restored to Fiji Tax Authority.

The Fiji Police seized printers and photo copiers from **Salendra Sen Sinha's** residence. The equipment was of the latest model and was used to print fraudulent VAT refund cheques.

There were certain challenges that made the nature of the case significant. Some factors involved were the high degree of planning behind the fraudulent activity, the large sum of money defrauded and the non-recovery of a substantial amount of money. This money laundering case was one of the first for Fiji FIU. At this time the Fiji FIU was still in its establishment phase and had very limited resources to work with.