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# Asset Recovery Times



## Director's Message

**A**s the Director of the Regional Security System Asset Recovery Unit, I am pleased to invite you to peruse the second edition of the 'Asset Recovery Times'. The RSS ARU team is excited to provide, through this medium, a synopsis of the efforts of the seven member states of the Regional Security System in utilizing financial investigations to identify, trace, restrain and recover assets which are the proceeds of crime.

The RSS ARU is an innovative approach to tackling serious and organized crime including corruption. The programme is made possible through the generous support of the United Kingdom Department for International Development (DFID). Our key stakeholders are the financial intelligence and investigative units across

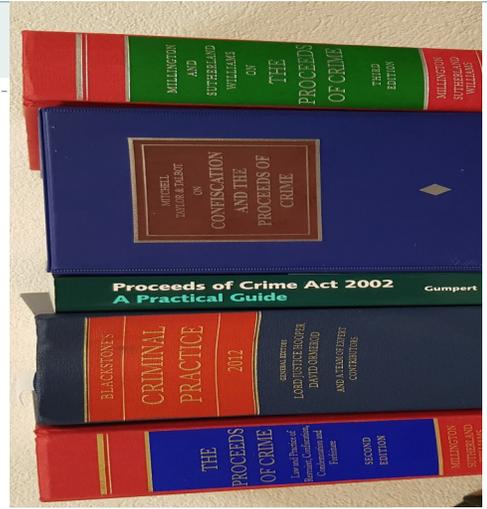
the RSS member states along with the various institutions that contribute to an effective criminal justice system in any democratic civilization. The success of the programme is enhanced through strong collaboration and partnership with agencies such as the National Crime Agency (NCA), Caribbean Financial Action Task Force (CFATF) and CARICOM IMPACS.

A key aim of the RSS ARU is to build the capacity of financial investigators in specialized units. Simultaneously, we intend to cascade the knowledge and skills required for financial investigations and the recovery of the proceeds of crime across the rank and file of law enforcement with a view to making the same part and parcel of mainstream policing. To achieve its goals and objectives the RSS ARU provides 'live' mentoring on proceeds and crime and asset recovery cases, raises awareness on the benefits of the effective use of proceeds of crime and asset recovery provisions and advocates for the adoption of standardized legislation across member states. It is envisioned that every relevant criminal investigation should be accompanied by a parallel financial investigation.

Ultimately, the efforts of all stakeholders should lead to an increase in cash seizures, detention and forfeiture, money laundering charges, restraint, confiscation and civil recovery of assets across the member states. Our efforts should be sending a clear message that crime does not pay by taking away from criminals any benefit derived from their illegal activities.



Training on Suspicious Transactions Activity  
-St Lucia (24th-28th, 2018)



## The Core Functions of the RSS ARU

- A. Mentoring on Live Cases;**
- B. Capacity Building;**
- C. Training;**
- D. Advocating for Standardised Asset Recovery Legislation Across the Member States; and**
- E. Assisting in obtaining Asset Recovery Orders**

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### SPECIAL POINTS OF INTEREST

- Use of Committal Warrants
- Civil Cash Seizure Proceedings
- Parallel Investigations
- Restraint Orders-Non-disclosure



# Cash Seizure: An Efficient and Effective Means of Disrupting Criminals

**T**he Proceeds of Crime or the Money Laundering (Prevention)

Acts within the Eastern Caribbean States, with the exception of Barbados and St Kitts, makes provision for the seizure of cash by law enforcement officers including Financial Investigators, customs and other law enforcement agencies stipulated by the respective legislations.

## Authority to Seize

The various laws empower a law enforcement officer who is lawfully on premises to seize any sum of cash where there are reasonable grounds to suspect that the said cash is recoverable cash, that is, it came from crime or was intended to be used for crime. The law enforcement officer must have reasonable grounds for seizure based on the circumstances and facts surrounding the finding of cash. The test of “reasonable grounds for suspicion” is both subjective (base on the officer’s own suspicion) and objective (what a reasonable person possess of similar facts would conclude)- [\*O’Hara v Chief Constable of the Royal Ulster Constabulary 1996 UKHL \(12 December 1996\).\*](#)

## Continued Detention

The Officer is allowed to detain seized cash for a period of seventy-two (72) hours. During this period, the Officer can conduct preliminary investigations to support an application for Continued Detention or to justify the legitimacy of the monies. Within the 72-hour period, where the Officer continues to hold reasonable grounds to suspect the cash is recoverable cash, he can apply for a Continued Detention Order at the Magistrate’s Court on the grounds that he needs further time to investigate the origin and intended use of the cash, to give consideration to instituting proceedings or that criminal proceedings in connection with the cash have been instituted. The order may be granted for a period not exceeding six months (Antigua & Barbuda) or three months (St. Vincent, St. Lucia, Dominica and Grenada)



Police lawfully search a person or premises or vehicle



Police finds cash and decides that there is reasonable grounds to suspect that it is either from crime or intended to be used in crime



police seizes cash; issue cash count form with notice of proceedings to all interest parties



Magistrate Court orders continued detention of cash within 72 hours of seizure (excluding weekends, holidays and days court is closed) for a period not exceeding three (3) or six (6) months



Police investigate origins or intended use of cash during three or six month period



Magistrates’ court can order continued Detention for up to two (2) years or forfeiture of cash upon Application.

## Release of Cash

The Respondent may make an application for release of the cash to the Magistrate at any time. The Respondent must satisfy the Magistrate that the grounds for the seizure are no longer justified and that the said cash neither came from crime or was intended for crime.

## Forfeiture & Appeals

Upon obtaining sufficient evidence, direct or indirect, to show that the cash came from or was intended for unlawful activity, the Officer may make an application for Forfeiture on the basis that the cash is recoverable cash. The court’s sole consideration is whether the monies are recoverable ([\*Secretary of State for the Home Dept. v Felit Tuncel\*](#)).

Any aggrieved party may appeal the forfeiture decision to the High Court within thirty days of service or date of order. The appeal will be by way of a de novo hearing/hearing afresh.



*“The test of “reasonable grounds for suspicion is both subjective and objective ”*



# RESTRAINT ORDERS (RO) AND WARRANT OF COMMITTAL (WC): TOOLS FOR EFFECTING CONFISCATION ORDERS



## Restraint Orders- Non-Disclosure!!

**A** Restraint Order is an order made by a High Court judge upon application by the Director of Public Prosecutions (DPP) under the Proceeds of Crime Act. It is designed to freeze all the assets (including bank accounts) of the individual(s) and company (ies) to whom it is directed, including assets legitimately acquired or assets located overseas. An individual or company may be the subject of a Restraint Order if he/she/it is an alleged offender who is suspected to have benefited from an offence or is a person who (though not an alleged offender) has received an asset (s) from an alleged offender for significantly less than its market value (a tainted gift). Its purpose is to preserve realizable property for the purposes of satisfying any criminal confiscation/ criminal forfeiture order, which may be or has been made. Ordinarily, a Restraint Order is granted following an *ex parte* application and should be made only if there is a genuine risk that assets will be dissipated (for example being spent, hidden, given away or removed from a country) in the absence of such an order.

Investigators and Prosecutors seeking Restraint Orders should pay particular attention and care when making these

*ex parte* applications. The requirement to demonstrate the risk of dissipation may sometimes prove difficult, however, development of jurisprudence in this area has highlighted that the principal challenge to Restraint Orders is lack of full disclosure to the judge that made the Order *ex parte*. The Court of Appeal in *Windsor & Hare v CPS [2011] EWCA 143*, took the opportunity to clarify the law to judges and the prosecution that such Orders should not be granted *ex parte* unless the prosecution can illustrate that they have done their job properly. The key ground for the Court of Appeal decision was the insufficiency of the evidence before the judge who granted the Order. In that case, the witness statements in support of the *ex parte* application were full of allusions to suspicion. The court held that the statements amounted to suspicion and not evidence and firmly stated that it was not good enough. In *Merida Oil Traders Ltd v Central Criminal Court [2017] EWHC 747 (Admin)* the court had this to say;

“It is or ought to be clear that applications are only to be made without notice when there is good reason why notice cannot be given – either because of extreme urgency or because it would defeat the purpose of the application. Further, **when applications are made without notice, there is a duty of disclosure.** The essence is the need for a fair

## CONTINUATION OF RESTRAIN ORDERS.....

presentation. Law enforcement agencies are entitled to support when engaged in proper and vigorous activity; but they cannot expect *carte blanche* and will lose support when, for no good reason, they keep relevant information from the very court whose assistance they are seeking.”

The *ex parte* procedure imposes a duty on the Prosecution to make a balanced application and inform the court of all material facts. It is therefore imperative that investigators and prosecutors note that when an application for an order is made without giving notice to a person whose rights will be affected by the order, it is a firmly established principle, and an important one, that the applicant must make full, fair and accurate disclosure of material facts to the court. Such facts therefore include any matter, which might reasonably be considered capable of undermining the application.

“...Criminals will not escape from being deprived of their benefit from crime”

## Warrant of Committal: Its Utility in Effecting Confiscation Orders

### Grenada

Criminals who fail to comply with a Confiscation Order (CO) run the risk of imprisonment. A CO is a monetary order by the court representing a person's benefit from crime which, can be reduced to reflect the value of his available assets. A Defendant is required to pay a CO upon the making of the order. To encourage payment within a specified time, the court may order a default term of imprisonment. In cases where a Defendant defaults on payment, enforcement can be made through the use of a Warrant of Committal (WoC). The WoC allows law enforcement authorities to arrest and imprison the defaulting defendant to serve a prescribed default sentence.

On March 5th, 2018, Grenada obtained its first WoC to enforce compliance with a CO. In the case of the **Commissioner of Police v. Anslem Stanislaus**, the Magistrate's Court of the Eastern District made a CO, upon conviction for a drug offence, requiring the Defendant to pay the amount of EC\$22,835.35. The defendant failed to satisfy the CO. A WoC pursuant to **section 40 of the Criminal Procedure Code Cap 72A** was issued and on Monday 17<sup>th</sup> September 2018, the defendant was arrested. He immediately paid the sum of EC\$22,835.35 in satisfaction of the confiscation order.

### St. Vincent and the Grenadines

Previously, St. Vincent and Grenadines, on the 3rd of February, 2017 obtained a WoC in the case of **R v Khamal Deroche No. 8 of 2015**. The High Court issued a WoC pursuant to **section 45 of the Civil Procedure Code, Cap 172** for DeRoche. On February 6, 2017 the Judge committed Deroche to prison to serve the default sentence imposed. Consequently, a payment was made in compliance with the order and DeRoche was released from prison.

The WoC was issued resulting from DeRoche's failure to comply with a CO requiring him to pay EC\$109,459.34 by March 30, 2016 or face a default sentence of seven years imprisonment. The CO emanated from DeRoche's conviction for drug trafficking offences.

These cases demonstrate that investigative and prosecutorial authorities are continuing their relentless efforts to ensure that criminals will not escape from being deprived of their benefit from crime.



# Civil Recovery: Criminal Monies on a Bank Account

## “The Civil Recovery Authority v CE, CM, XE and DI”

The Saint Vincent and the Grenadines Financial Intelligence Unit’s (SVGFIU) Civil Asset Recovery Division (CARD) was activated through a report received from the Criminal Investigation Department (CID) of the Royal St. Vincent and the Grenadines’ Police Force (RSVGF) which relayed suspicion around a bank transaction conducted on the 22<sup>nd</sup> of March, 2016.

bearer bonds and bearer shares, electronic cash and any other monetary instrument that is prescribed as cash. Property is defined in the said section as property of every kind, whether situated in the State or elsewhere, and includes money, all forms of real or personal and heritable or moveable property and things in action and other intangible or incorporeal property.

### The Transaction:

Investigations revealed that the Second Respondent (CM) is a

businesswoman whose business place, the First Respondent (CE), is in close proximity to and patronised by the students of an international medical school registered and operating locally.

The Third Respondent (XE) deposited the US equivalent of Ninety-Nine Thousand Eastern Caribbean Dollars (EC\$99,000.00) into the business account of CM. The deposit was made via wire transfer. The XE initially indicated that he needed to utilize the Second Respondent’s account to send monies to Saint Vincent and the Grenadines for his cousin who was coming to attend medical school. A day after sending the money, the XE indicated that his cousin was no longer coming to Saint Vincent and the Grenadines and as such, he wanted the monies returned and gave instructions on how this was to be done, namely in the form of five (5) cashier cheques sent via FedEx, in the names of different recipients.

It was the Recovery Authority’s submission that this exemption was not applicable to the instant case as money in a bank account does not fall within the definition of cash but is instead an intangible form of property, namely a chose in action. Chose in action is used to describe all personal rights of property, which can only be claimed or enforced by action, and not by taking physical possession. Furthermore, according to Hudson A. in “The Nature of Property in Equity and Trusts”, 2004, 34.1.3, “a bank account is merely a chose in action, a contractual recognition by the bank that the account holder has deposited money with it and that the bank is required to return that money to the customer in accordance with the terms of their contract.”

### The Property Freezing Order

The decision was taken to make an interim application for a Property Freezing Order (PFO) to freeze the business account (CE) of CM due to the nature of the property and the account (a business account associated with an active business). The Application was made ex parte on the 19<sup>th</sup> of July 2016, granted on the 21<sup>st</sup> and perfected on the 22<sup>nd</sup> of July 2016.

### The Recovery Order

An application for a Recovery Order was made on January 17<sup>th</sup> January 2018 pursuant to *section 74* of POCA. The Recovery Order in this matter, Claim No. 1 of 2018 was granted on May 3<sup>rd</sup>, 2018 and vested the recoverable property in the trustee, namely the sum of Ninety Nine Thousand Eastern Caribbean Dollars (EC\$99,000), which was held in the CM’s bank account.

### Background Facts:

Approximately three (3) years ago, CM met a male student who was attending the said medical school, XE, when he came to her business place and they subsequently developed a friendship and exchanged telephone numbers. At the time of the transaction XE had left the jurisdiction for over three (3) years.

During the course of investigations, XE was contacted in respect of the monies and indicated that the monies involved in the transaction were sent by a company to purchase medical equipment. The SVGFIU requested that XE have someone from the company contact the SVGFIU. The Fourth Respondent (DI) subsequently contacted the SVGFIU. Further investigations revealed that the nature of business transactions engaged in by the said company did not involve the purchase of medical equipment as asserted by the XE and DI. It was also revealed that they were in no way affiliated with the company as claimed.

### Challenges:

Preliminary, an issue which arose was in relation to *section 102 (1) (a)* of the POCA which provides that proceedings for a recovery order **may not** be taken in respect of cash found at any place in the State unless the proceedings are also taken in respect of property other than cash which is property of the same person. Cash is defined in *section 2* of POCA as including notes and coins in any currency, postal orders, cheques of any kind, including travellers’ cheques, bankers’ drafts,

### Interesting Fact

**Provisions freezing of Bank accounts in the United Kingdom under the Criminal Finance Act 2017**

The Criminal Finance Act 2017 allows law enforcement authorities in the UK to freeze bank accounts where they have reasonable grounds to suspect that they hold the proceeds of unlawful conduct or proceeds intended to be used for the same. The authorities are allowed under the provisions to apply for an Account Freezing Order where they have suspicion and once their investigations are completed to apply for an Asset Forfeiture Order (AFO) to have the contents of the bank account forfeited.

Private Banking Account			
Balance (RM)	Board Rate (%) p.a.	Bonus Interest (%) p.a.	Total Rate <sup>1</sup> (Board Rate + Bonus Interest)
RM 100,000 to RM 250,000	0.80% p.a.	0.30% p.a.	1.10% p.a.
RM 250,000 to RM 500,000	2.00% p.a.	0.30% p.a.	2.30% p.a.
RM 500,000 to RM 1,000,000	2.20% p.a.	0.30% p.a.	2.50% p.a.
RM 1,000,000 to RM 2,000,000	2.35% p.a.	0.50% p.a.	2.85% p.a.
RM 2,000,000 to RM 5,000,000	2.55% p.a.	1.30% p.a.	3.85% p.a.

Private Banking Account			
Sample Balance	Indicative Profit (%) p.a.	Bonus Profit (%) p.a.	Total Rate (Indicative Rate + Bonus Profit)
RM 100,000	1.70% p.a.	0.30% p.a.	2.00% p.a.
RM 250,000	1.70% p.a.	0.50% p.a.	2.20% p.a.
RM 500,000	2.00% p.a.	0.50% p.a.	2.50% p.a.
RM 1,000,000	2.00% p.a.	1.30% p.a.	3.30% p.a.
RM 2,000,000	2.00% p.a.	1.30% p.a.	3.30% p.a.

*“money in a bank account does not fall within the definition of cash but is instead an intangible form of property”*



## Parallel Cash Seizure and Money Laundering: Randy Alexander v AA & ATJ



**On** Tuesday the 7<sup>th</sup> day of February 2017, about 7:40pm, a Police Officer attached to the Special Services Unit was conducting patrol duties when he received information which led to the interception of a navy-blue Suzuki SX4 motor car. The interception led to the discovery of two occupants (a Venezuelan and Saint Lucian national) who were escorted to the Police Station along with the motor vehicle on which they were travelling.

Whist at the station a thorough search of the vehicle was conducted and two travel bags were discovered in the trunk. A search of the two bags revealed a large quantity of cash and items of clothing. The two individuals were detained and a Financial Investigator attached to the Financial Intelligence Authority of Saint Lucia (FIA) was contacted and given the details of the interception/arrest. The individuals were detained and later interviewed with the assistance of a Translator (Spanish) in the presence of their Attorney.

In the presence of all the relevant parties, the contents of the bag suspected to be containing the monies were removed. The money was displayed to the two individuals and the observation was made that all of the monies were bundled by means of rubber bands, with some being bundled in larger parcels which appeared to be vacuum-packed in a clear plastic bag.

The money was subsequently counted in the presence of both suspects and upon completion there was a total of Three Hundred and Ninety-five Thousand, Two Hundred and Sixty United States Dollars (USD395, 260.00). When questioned about the derivation and intended use of the monies recovered, neither of the suspects gave an answer.

The monies were seized pursuant to Section 29A of the Proceeds of Crime Act Cap. 3.04 of the Revised Laws of St. Lucia and each Respondent was served with a Notice of Cash Seizure and Continued Detention. Both Respondents were also formally charged for the offence of Money Laundering pursuant to

Section 30 (1A) of the Money Laundering Act, Cap. 12.20, of the Revised Laws of Saint Lucia. A parallel cash seizure and money laundering investigation was pursued by the FIA. The financial investigation was conducted using a host of investigative tools including director's letters, production orders, informal requests and mutual legal assistance requests. The investigations did not produce evidence of a specific type/kind of criminal conduct, however, there was a body of circumstantial evidence, which pointed to an irresistible inference that the monies came from criminal conduct.

The Investigating Officer sought to build his case by highlighting the following circumstances;

- The amount of cash found in the suitcase (USD395k);
- The time of the interception (8:00pm);
- The particular area nicknamed "The Valley" (which is a high convergence point for drug transactions);
- The packaging method (vacuum sealed monies in a padlocked suitcase); and
- The fact that neither defendant could give a credible explanation for having the cash in their possession.

As the investigation continued, a visit to the immigration department revealed that the Venezuelan national had no record of entry into St. Lucia and that the St. Lucian national had gone to Venezuela on a number of occasions (this was exhibited in his national passport).

The investigations also sought to draw the association between the St. Lucian national and his business partner who is known by law enforcement to be a behind-the-scenes actor in the local drug trade.



## MOST VALUABLE FINANCIAL INVESTIGATOR FOR THE QUARTER



**M**y name is Ivo Ash and I am a Sergeant (Ag.) of Police in the Royal Saint Vincent and the Grenadines' Police Force. I have been a Police officer for seventeen (17) years attached to the Financial Intelligence Unit for ten years as a Financial Investigator.

During my secondment at the FIU, I received training in the field of financial investigations, money laundering and asset recovery, including confiscation and civil recovery. I am a trained CFATF Assessor and trained and certified as a Cellebrite Logical Operator and Physical Analyst of mobile devices using the Universal Forensic Extraction Device (UFED) hardware and software.

My portfolio of responsibilities includes the training of other police and law enforcement officers in areas of money laundering, terrorist financing and confiscation as well as offering guidance in cash seizure processes and procedures. I also engage in the training and development of persons seconded to the Unit from across the region as part of the RSS/ARU Centre of Excellence Secondment Program.

In my capacity as a Financial Investigator, I have made several applications for cash detention and forfeiture at the Magistrate's court that resulted in the cash ultimately being forfeited pursuant to the Proceeds of Crime Act, No. 38 of 2013 as amended by the Proceeds of Crime (Amendment) Act No.18 of 2017. The sum of approximately Five Hundred Thousand Eastern Caribbean Dollars (ECS500, 000.00 ) has been forfeited.

I have been involved in several money laundering investigations . Notably, I was part of the investigative team that gathered evidence leading to the conviction of Antonio Gellizeau for stand-alone money laundering offences on March 9<sup>th</sup> 2012 as a result of One Million, Seven Hundred and Thirty Three Thousand, Four Hundred and Sixty Three United States Dollars (US\$1,733,463), the equivalent of (EC\$4,628,346) that was found on a yacht in Saint Vincent and the Grenadines. This investigation resulted in an additional approximate value of Three Million, Seven Hundred and Sixty One Thousand, One Hundred and Twenty Seven Eastern Caribbean Dollars (ECS3, 761,127.00) in assets being restrained for Confiscation proceedings, the defendant benefit from crime calculated to be ECS10,333,017.64

Another money laundering investigation resulted in three (3) Saint Lucian nationals being charged for money laundering offences that stemmed from their card skimming activities at several financial institutions in SVG. They were charged with the offences of “ possession of criminal property” and “entering into or becoming concerned in an arrangement which you [they] know or suspect facilitated, by whatever means, the acquisition, retention, use or control of criminal property”. These were the first arrest and convictions using these provisions in Proceeds of Crime Act, No. 38 of 2013.

Furthermore, I am a financial investigator for the purpose of SVGFIU Civil Asset Recovery Department and was integrally involved in the first Civil Recovery Order granted on May 3<sup>rd</sup> 2018 in the Eastern Caribbean Supreme Court pursuant to the Proceeds of Crime Act where the sum of Ninety Nine Thousand Eastern Caribbean Dollars (ECS99, 000) was recovered from a bank account. In addition, I am also involve in two (2) other applications currently before the Courts with a combined value of Nine Hundred and Ninety Six Thousand, Eight Hundred Eastern Caribbean Dollars (ECS996,800.00).

### Continuation from Cash Policy Article.....

*officers investigating offences where an accuse/suspect has attained a financial benefit **MUST** report such matters to the Proceeds of Crime Unit within 24 to 48 hours”*

That Policy document made clear the Commissioner's and organisations' intent and communicated a structured course of action that ensures a consistent approach. The effectiveness of the written policy was immediately reflected. Comparatively, during the period 2012-2015, there were 18 cash seizures, while post 2015; there were 122 cash seizures. All were successfully investigated by the Proceeds of Crime Unit and subsequently forfeited to the Government.

That Policy was essential in galvanizing compliance of all members of the police force, guiding decision-making and maximising outcomes. The result was a significant increase in cash seizures, removing from the hands of criminal the benefit of criminal conduct or monies intended for use in crime. We encourage all jurisdictions to implement a cash seizure policy.



## Productivity Impacted by Cash Seizure Policy!

“Justice is itself a great standing policy of civil society, and any imminent departure from it, under any circumstances, lies under the suspicion of being no policy at all.”  
Edmund Burke

On the 6<sup>th</sup> May 1991, I Donald Sheckle became a member of the Royal Police Force of Antigua and Barbuda. At the Police Training Centre, I was armed with the tools necessary to become a respected and confident Police officer. I graduated with a sound working knowledge of the laws and my authority under it and a greater sense of responsibility to the people.

My duty as an officer was to maintain law and order and safe guard life and property. I was going to make the world a better place and no one was going to stop me! In all my zeal and exuberance to fight organise crime and corruption I began to observe that there was room for improvement in the operations of my organisation.

The conduct of investigations, the treatment of suspects and witnesses varied with the officer immediately engaging the person or the seriousness of the alleged offence. Similarly, it appeared that the level of engagement varied between departments and units based on the personality and discretion of the officer in charge. There was opportunity for standardisation and as a young officer it took me some time to figure it out.

In May of 2011 the Proceeds of Crime Unit (POCU) was established and I was attached to said Unit. My duties included investigating financial crime, including the forfeiture and confiscation of the proceeds or instrumentalities of crime. It was my considered view that a written guidance detailing my duties, line of reporting or the type of matters to be sent to the Unit would prove invaluable in improving effectiveness.

In early 2015, I became the head of the Proceeds of Crime Unit and used the opportunity to meet with the then Commissioner of Police, with whom I shared my concerns and suggested a number of recommendations. After further sensitization in the area of cash seizure to senior officers, the Commissioner issued Standing Order, No. 2 of 2015 on the 18<sup>th</sup> November, 2015 stipulating the condition for engagement with the Proceeds of Crime Unit

The Order states “*proceeds of crime has become a very critical issue in criminal investigations for all law enforcement officers. Furthermore, removing the profits from all crimes **MUST** now form an important process of all criminal investigations. Therefore, effective immediately, all police*

*“I have preferred money laundering charges against two (2) individuals. One (1) involving a French national who in February 2017 was found to be in possession of EC\$27,925.00 and US\$1,845.00 having used thirteen (13) counterfeit cards to defraud two (2) banks”*

## MOST IMPROVED FINANCIAL INVESTIGATOR

**M**y name is Anslem Austrie, a Police Constable of the Commonwealth of Dominica Police Force of nine (9) years and Financial Investigator seconded to the Financial Intelligence Unit (FIU) from December 2016. Previous to my secondment with the FIU, I was attached to the Criminal Investigations Department (CID) and a member of the Major Crimes Unit (MCU) for six (6) years.

I always enjoyed the thrill and adventure involved in investigating financial crimes. It was whilst at the CID in July 2016, that I investigated my very first case of ATM fraud involving three (3) Chinese nationals who used two hundred and sixty-one (261) counterfeit bank cards to defraud a bank of EC\$104,705.00. They were subsequently jointly charged with theft, convicted and sentenced at the High Court to six (6) years imprisonment. My commitment and dedication towards the success of this case contributed significantly to my selection to join the FIU.

Having transited to the FIU, my knowledge and understanding of this evolving field of financial investigations has and still is being significantly boosted with the assistance of the personnel of the Dominica FIU, RSSARU and other regional and international agencies. I have benefited from several training programs in financial investigations and related areas. From April to June 2017, I was seconded to the Financial Intelligence Unit of St. Vincent and the Grenadines where I obtained a better understanding of asset recovery and learned strategies to effectively investigate Money Laundering and other financial crimes, a secondment that was made possible through the RSS ARU and the Government of Dominica. Recently, I was given the role of Head of the Analysis Department within the Dominica FIU alongside my role of being a Financial Investigator.

Within the two (2) years that I have been at the FIU, I have preferred money

laundering charges against two (2) individuals. One (1) involving a French national who in February 2017 was found to be in possession of EC\$27,925.00 and US\$1,845.00 having used thirteen (13) counterfeit cards to defraud two (2) banks via their ATMs. The money laundering charges were subsequently withdrawn as there were simultaneous summary charges laid against him. The other case involves a Dominican citizen who in July 2018 was found to be in possession of



€187,245.00 equivalent to EC\$561,000.00. He is currently on bail. Parallel civil cash forfeiture proceedings were instituted for each of the above mentioned cases. In addition to these, I had my very first Civil Cash Forfeiture Order granted in May 2018. This case involved EC\$17,440.00 and US\$6,034.00 equivalent to EC\$33,550.78 found in the possession of two (2) Colombian nationals in May 2017.

The aforementioned investigations and the achievements received would not have been possible and successful without the valuable input and assistance of the personnel at the Dominica FIU and the RSS ARU for their unwavering support and commitment. I therefore take this opportunity to encourage other Financial Investigators and Law Enforcement agencies in the region to collaborate with and utilize the resources available at the RSS ARU in order to increase your successes in fighting crime.



# THE RSS ARU SECONDMENT PROGRAMMES: CAPACITY BUILDING THROUGH PRACTICAL TRAINING

## The Secondment Programme: SVG-FIU/RSS-ARU Centre of Excellence

This programme is facilitated by the Saint Vincent and the Grenadines Financial Intelligence Unit (SVGFIU) and funded by the Regional Security System-Asset Recovery Unit (RSS-ARU). Also, the programme accepts self-funded participants from non-RSS jurisdictions. The programme has trained approximately thirty-two (32) Secondees to date from eight (8) jurisdictions. Secondees receive training in proceeds of crime and asset recovery subject areas and are given the opportunity to apply said training to live matters or through mock hearings and practical exercises.

Topics covered during the secondment period, which ranges from 6 weeks to 3 months, include: Seizure, Detention and Forfeiture of Cash; Civil Recovery; Investigative Tools (e.g. Production and Monitoring Orders); Investigative Techniques and the importance of telephone data extraction/examination; Money Laundering; Confiscation and Restraint Orders, Preparation of Investigator & Prosecutor Statements; SAR analysis overview; and an FATF/CFATF Overview. Secondees attend court when relevant matters are heard, attend seizure locations and conduct further investigations, draft applications which are then presented in mock hearings, undertake comparisons of their legislation and SVG's noting areas for improvement or development in either. Typed reports are due at the end of each week. Personnel within the SVGFIU deliver the various topics with responsibility for the respective areas.

The SVGFIU welcomes interactive sessions and ongoing dialogue with Secondees as they are able to also review live cases and provide input. The programme has been

invaluable in building the regional capacity of Financial Investigators, through an immersive experience in conducting Financial Investigations. Further it provides an opportunity to influence legislative, structural and operating changes, fostering and strengthening partnerships and deepening the understanding of the various processes and legislation in the respective jurisdictions

## Experience of Secondment Officer—Ross Clarke (FCIU)

During the period, 13th February-8th April, 2017 I was Seconded to the St. Vincent and the Grenadines' Financial Intelligence Unit (SVGFIU). I was exposed to a wealth of knowledge which was imparted by Senior Financial Investigators and Legal Officers attached to the Unit. As part of my Secondment I received practical training and live experience in the investigation of proceeds of crime and asset recovery matters. As a result, I have a greater understanding of financial investigation and the role of the Financial Investigator. On my return to the Financial Crime Investigations Unit (FCIU) I was able to apply a number of best practices and tools which I was exposed to whilst at the SVGFIU. The Secondment Programme was extremely beneficial to me and should be maintained and offered to all Financial Investigators in the Region.



*“My stint with the RSS ARU was a very successful and informative.”*

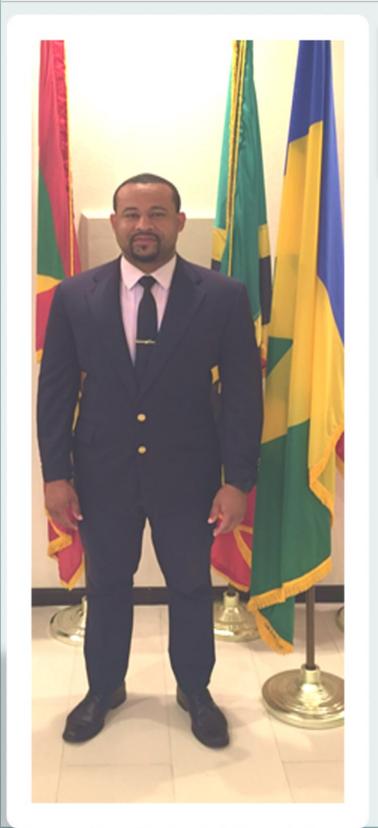
**M**y name is Kelroy Richardson, a Constable of Police of the Royal St. Vincent and the Grenadines' Police Force, of Twelve (12) years, including three years attached to the Financial Intelligence Unit.

I am pleased to report that I was a participant in the Advance Capacity Building Program hosted by the Regional Security System Asset Recovery Unit (RSSARU) from the 16th July, 2018 to 12th October, 2018. A program designed to build the capacity of Financial Investigators and Legal Officers within the seven (7) RSS Member States.

My stint with the RSS ARU was a very successful and informative one. I was tasked to study the St. Vincent and the Grenadines' Proceeds of Crime Act, (POCA) in relation to Cash Seizure, Detention of Cash, Forfeiture of Cash, Confiscation, Restraint and Investigative tools and made presentations on the same. The presentations entailed the process and procedure, relevant powers and case laws which clarifies the legal principles surrounding the aforementioned areas. There was adequate feedback and guidance provided by the RSSARU staff after each presentation which aided my development in the highlighted areas.

I had the opportunity to directly observe the operation of Financial Intelligence Units in the RSS member states, including Dominica, Antigua and Barbuda, Grenada and St. Lucia. During my visits, I witnessed first-hand the methods and lines of inquiries utilised by Financial Investigators to pursue financial investigations and develop asset recovery cases. I was involved in discussions surrounding financial investigations and noted the advice given by members of the RSSARU to resolve investigative challenges. I made an assessment of the strengths and weaknesses in developing proceeds of crime and asset recovery cases in varying circumstances and noted the best practices that were adopted by other Financial Investigators.

I was also fortunate to be amongst the RSSARU contingency when training was delivered and got the opportunity to widened my knowledge in relation to financial investigation. Consequently, I am more knowledgeable and equipped to carry out my duties as a Financial Investigator.



# HOT TOPIC: CRYPTOCURRENCY- BLOCK CHAIN (PRT 2)



*“Hacking attacks that commonly impact large centralized intermediaries like banks would be virtually impossible ...”*



**B**itcoin first appeared in 2008 and was detailed as an innovative peer-to-peer electronic cash system that enabled online payments to be transferred directly, without an intermediary. There are 1600 other crypto currencies which includes Litecoin, Swiftcoin, Dogecoin, Primecoin, Ripple and Nxt.

Whilst bitcoin has become known as the leading Crypto Currency, the payment system it utilized is exciting and innovative. The mechanics of how it works is considered truly revolutionary and it became evident that the main technical innovation was not the digital currency itself but the technology that lay behind it, known today as blockchain.

Although commonly associated with Bitcoin, blockchain technology has many other applications. Bitcoin is merely the first and most well-known uses. Simply, a blockchain is a type of distributed ledger or decentralized database that keeps continuously updated customer due diligence records digitally. Rather than having a central administrator like a traditional database, (i.e.: banks, governments & accountants), a distributed ledger has a network of replicated databases, synchronized via the internet and visible to anyone within the network.

When a digital transaction is carried out, it is grouped together in a protected block with other transactions that have occurred in the last 10 minutes and sent out to the entire network. ‘Miners’ (members in the network with high levels of computing power) then compete to validate the transactions by solving complex coded problems. The first miner to solve the problems and validate the block receives a reward. (In the Bitcoin Blockchain network, for example, a miner would receive a percentage of a Bitcoin).

The validated block of transactions is then time stamped and added to a chain in a linear and chronological order. New blocks of validated transactions are linked to older blocks, making a chain of blocks that show every transaction made in the history of that Blockchain. The entire chain is continually updated so that every ledger in the network is the same, giving each member the ability to prove who owns what at any given time.

Blockchain’s decentralized, open & cryptographic nature allows people to transact peer-to-peer, making the need for intermediaries obsolete. This also brings security benefits. Hacking attacks that commonly impact large centralized intermediaries like banks would be virtually impossible to pull off on the Blockchain. For example—if someone wanted to hack into a particular block in a Blockchain, a hacker would not only need to hack into that specific block,

but all of the proceeding blocks going back the entire history of that Blockchain. And they would need to do it on every ledger in the network, which could be millions, simultaneously.

### What is a Blockchain?

A Blockchain is theoretically a tamper-proof distributed public ledger that manages transactions. Blockchain is basically an incorruptible distributed ledger of data, which can be used to store informational assets ranging from managing cryptographic contracts to transferring value. The most recognized application on a Blockchain is bitcoin transactions. The transferring of value from one person to another with no central intermediary, and without allowing a person or party to spend their bitcoin twice “the double spend rule”. It means that “value” can have a change of title and ownership from one person/party to another, without the need of a trusted third party.

Beside being a ledger for “data of value”, or cryptocurrencies, Blockchain technology is finding broader usage in peer to peer lending, contracts managements, healthcare data, stock transfers, and even elections.

### Public Blockchain

Fully decentralized and uncontrolled networks with no access permission required—anyone can participate in the consensus process to determine which transaction blocks are added. There is usually little or no pre-existing trust between participants in a Public blockchain. This Blockchain was designed to securely cut out the middleman in any exchange of asset scenario. It does this by setting up a block of peer-to-peer transactions. Each transaction is verified and synced with every node (Network of Computers) affiliated with the blockchain before it is written to the system..





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