

ANATOMY OF A FRAUD CASE

IZODIA'S MISSING MILLIONS

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

A superficial history

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

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

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

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

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

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

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



The first suspicions

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

Or so it seemed.

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

take to the Jersey police.

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

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

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



Philip Blakebrough, assistant director

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

A familiar face

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

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

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



Kevin McDonald, principal financial investigator

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

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

The searches

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

Offshore trusts

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

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

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

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



The Jersey offices of Lynch Talbot

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

The motive

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

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

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

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

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

1 and 2 August

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

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

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

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

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

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

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

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

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Lillian Oscar, financial investigator

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

Scrutinising email traffic

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

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

Tracing the cash

The case team wanted to be able to demonstrate definitively to a jury that none of Izodia's money had been used to settle legitimate Izodia liabilities. Lillian Oscar traced every payment: *"We could see that it had been a very close shave for Smith. Trevor Jones only just had time to carry out Smith's instructions before the first, £17.2 million interest payment on the Morgan Stanley loan fell due on the Monday. That payment alone absorbed £12.3 million of the Izodia money. Slightly more than £3 million had been paid to the various Swiss trusts and other individual investors. £2.8 million went into Orb Estates plc. A 30% share in a company called GDN had cost just over £820,000. Almost £1¼ million went to refurbish Orb's London offices and another £1¼ million went on executive jet rentals. Altogether nearly £2.3 million went to Smith's personal benefit: £1.8 million as a down payment on a yacht he was having built in Australia; £180,000 to the company that owned his homes; over £106,000 on building work in Jersey and London; and £20,000 for a water clock for the Jersey house. And every time we spoke to a company or a contractor they had never heard of Izodia."*

False confirmations

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

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

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

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

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

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

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

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

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

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

A second theft

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

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



Katie Badger, case controller

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

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

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

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

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

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

Preparing for trial

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

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

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

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

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

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

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

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

Charging

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

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

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

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

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

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

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

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

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

AWOL

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

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

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



Jonathan Caplan, QC

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

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

Restraint and confiscation

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

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

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

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

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

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

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

Guilty

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

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

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

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

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

Vahey and Catto

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

Proceedings against Vahey were halted but his two counts of conspiracy to defraud were to remain on the file.

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

'A case in point'

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

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

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

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

A CLOSER LOOK

AN INSIGHT INTERVIEW WITH THE VETTING TEAM

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

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

clearest picture both of the background to the case and any investigation's prospects of success.

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

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



The HQ of the UN, New York

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

Vetting

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

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

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

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

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

Standards

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

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

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

Private applicants

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

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

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

Overseas corruption

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

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

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

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

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

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

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

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

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

The future

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

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

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

JESSICA DE GRAZIA AND THE REVIEW OF THE SFO

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

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

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

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

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

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

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





Manhattan and the Brooklyn Bridge

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

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

equivalent of a QC), she has a tremendously detailed understanding of the full functioning of a highly-effective public prosecution system. It is this broad senior experience that has made her insights and analyses so valuable to the UK prosecution services:

"Working one's way up through the ranks in the DA's office you come to understand fully what makes a good prosecutor's office. Because you have experienced how everything fits together, there are no mysteries."

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

progress and/or outcome of the case."

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