

## Reflections from the FIRE Starters Global Summit in Dublin

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There was a distinct air of positivity and delight to be out and about networking again at the FIRE Starters Global Summit in Dublin. Once again, the event was well attended by a wonderful and dynamic group of international professionals from across the advisory spectrum in asset recovery, fraud and insolvency and many new networks were forged over the fun three-day event.

In this article, Jersey partner James Angus, Guernsey partner Alex Horsbrugh-Porter, Cayman partner Shaun Maloney and Cayman senior associate Marie Skelly share a short overview of some of the sessions they attended.

### **Interactive case study of a contentious high-value UK bankruptcy with multi-jurisdictional elements**

*David Hinrichsen of FRP, Mark Biggs of Eminent Crisis Management Group Limited, Laura Dymott of FRP, and Molly Sandquest of FRP*

The conference opened with an interactive, and very entertaining, fictional case study concerning a contentious bankruptcy with multi-jurisdictional elements. Armed with various tranches of documents, delegates set upon investigating the bankrupt's affairs and investigating his nefarious dealings. Supported by the team at FRP and Eminent Crisis Management Group Limited, participants were taken from casinos in Monaco to a safari park in South Africa in their efforts to recover valuable assets in the hands of a colourful cast of characters. The workshop was the perfect opening session for the conference, with delegates effortlessly interacting with each other and sharing their own war stories on recovery and enforcement.

### **The work of investigative journalists**

*Clare Rewcastle Brown, editor of The Sarawak Report*

Thursday kicked off with a highly engaging session presented by Clare who spoke passionately about her investigative work sparked by a lack of coverage on the devastating deforestation and plundering of Borneo's ancient rainforests. She took us on a round the world tour of intrigue, scandal, corrupt politicians and movie stars culminating in the ultimate takedown of the prime minister of Malaysia Najib Razak and his corrupt family with the help of the US Justice Department who was able to repatriate over US\$1 billion to the people of Borneo. The 1MDB scandal which made headlines in 2015 and was described by the US Attorney General at the time as the worst form of kleptocracy in history is a reminder of the importance of a free press in exposing serious fraud.

## **The courts' nuclear weapons: a comparison across borders**

*Howard Fischer of Moses & Singer, Eva Mukami of Oraro & Co Associates, Tomislav Sunjka of Sunjka Law, and Luca Gavini of Duarte Forsell*

A panel of experts from the US, Brazil, Kenya and Serbia discussed the pros and cons of involving regulators and government agencies in fraud investigations. Reminiscent of the movie Team America, Howard reminded us that the US sees itself as the policemen of the world who can, and will, ground jurisdiction and take over an investigation even if only the preparatory steps of a fraud take place there. He noted some interesting distinctions between obtaining a freezing order in a criminal government investigation or a civil case: in the criminal case the US Department of Justice can only freeze assets connected to the crime and a defendant can fund his criminal defence out of the proceeds. However, in civil cases the government can freeze assets which are unconnected to the activity complained of and funds cannot be used for the defence. While there is a clear benefit in bringing a complaint to a civil agency one should also be aware of the fact that once the US government steps in they will look at everyone, not just the person or entity complained of, but your client also. In summary, parties should be careful about involving a government agency who, while giving you access to weaponry in the fight against fraud can also bring a big brother style relationship which may not always be welcomed.

## **Use of criminal processes in civil matters**

*Joanna Bogdanska of KW Kruk & partners, Jeremy Bressman of Kobre & Kim, Merijn Moeliker of Florent, and Antonia Mottironi of Ardenter Law*

The speakers gave an insightful overview of the use of committal and private prosecution in each of their jurisdictions of Switzerland, The Netherlands, the US and Poland. Of particular interest was the fact that Switzerland's strict banking secrecy laws do not apply in insolvency

and fraud cases with a criminal aspect. Merijn spoke about the cost effectiveness of bringing criminal proceedings rather than spending hundreds of thousands of dollars on civil proceeding. Jeremy spoke of how there might always be a US angle to a fraud case even if it is not obvious as the US can take jurisdiction even over activity in the early preparatory stages of a crime.

## Tackling 12 months of trends in asset recovery and investigations

*Grant Thornton's asset recovery and forensic investigations group*

This was a lively interactive session involving discussions of certain scenarios formulated by Grant Thornton in relation to an insolvent fictional company with subsidiaries overseas. Discussions included the use of recognition of foreign office-holders in other jurisdictions and the use of disclosure orders.

## Around the world update

*Denis Piskunov of Magnusson, Christina Preiner of Gasser Partners, Thom Dieben of Jahae Raymakers, Matthew Brown of Conyers Dill & Pearlman, and Gemma Freeman of Dentons*

This was an excellent around the world update from engaging speakers from the Netherlands, BVI, Estonia, Ireland and Lichtenstein. Matthew spoke about the recent Privy Council decision in *Convoy v Broad Idea*. Denis spoke of litigating against organised crime in Estonia which has become a magnet for crowd funding fraud due to the super small costs of incorporating a private company there. Gemma spoke about the effects of Brexit on Ireland in terms of recognition and assistance in insolvency context which was very interesting.

## Crypto in 2022: better to ask a stupid question than make a stupid mistake

*Sam Goodman of 20 Essex Street, Carmel King of Grant Thornton, and Syedur Rahman of Rahman Ravelli*

A fascinating insight into the cutting edge of tracing crypto assets by IPs as well as the current trends in fraud involving crypto assets. Carmel talked of the recent frauds in relation to both DeFi ie decentralised finance where there is little to no KYC and also non-fungible tokens (NFTs). Syedur then talked about recent UK cases which involved obtaining disclosure orders against crypto exchanges as well as proprietary injunctions. Sam rounded off the talk with a summary of useful legal tools in crypto disputes including proprietary claims for knowing receipt and knowing assistance. Sam referred to the recent Al Sanea legal proceedings in which the most recent authorities on knowing receipt were examined.

# Innovative ways to identify, recover and enforce against assets

*Christopher Pease of Harneys, Dr Elvan Sevi Bozoglu of Bozo lu Izgi, Evin Durmaz of Manfrini Bitton Klein, and Dienne Herman de Groot of Omni Bridgeway*

Another interesting session from an engaging panel of speakers. Evin spoke of a new law in Switzerland which would assist as a means for getting information in Switzerland, which was historically very difficult due to the strict banking secrecy laws there.

## Conclusion

It truly was another great event in the vibrant City of Dublin connecting the thriving FIRE community across the globe and we at Ogier are already looking forward to the next event. Slan agus beannacht!

*This article was originally published by ThoughtLeaders4 FIRE.*

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