



Un caso reciente del fraude y de recuperación electrónica

Steven Philippsohn

Head of Commercial Fraud

Philippsohn Crawfords Berwald

IF *ex*

En **C**ambio

Money Laundering & Cybercrime Convention 2001

A Recent Case of Electronic Fraud and Recovery

Steven Philippsohn

**Head of Commercial Fraud
Philippsohn Crawfords Berwald**

Email: snp@pcbsols.com

Web Site: www.pcbsols.com

Caracas, Venezuela -Thursday, 11 October 2001






The Fraud

 **Bank of New York**

 **Sani Abacha**

 **Jyske Bank**

Recovery of losses

-  **Speed and surprise - Why?**
-  **Do you want to do anything about it and if so, what?**
 -  **Hawks and Doves**
 -  **Personal liability of Directors/Members of the Board**
 -  **The Solo Industries fraud**

Recovery of losses

Find the Money First and the Criminal Second

 **Why?**

 **Who should be in the recovery team?**

 **Lawyers**

 **Investigators**

 **Staff**

Third Party Disclosure

 **Motley Fool**

 **Gagging**








 **How Disclosure Orders can help - A Case Study**

- **ATB v Leahy**
- **Euroactividade**

Get the money back / stop the crime





Search and freezing Orders

Grounds

-  Needs for immediacy
-  Good arguable case
-  Full Disclosure
-  Undertaking as to damages
-  World Wide
-  Allowance for expenses
-  Carrying on business



Recovery of losses

Execution of Search Orders




-  Investigator
-  Data Recovery Expert
-  Supervising Solicitor
-  Lawyer outside Court

Recovery of losses

Fraudster's Disclosure order

-  Cross-Examination
-  Delivery up of Passport

Effective Sanctions

-  Prison
-  Fine
-  Confiscation

Get the money back / stop the crime

Liability of accessories

-  **Constructive Trustees - knowing receipt**


-  **Lawyers and Accountants**

-  **ISP's - Demon Internet - Yahoo!**

-  **To pay or not to pay - the judicial view**

Get the money back / stop the crime

Assistance given to or by the Courts

-  UK Courts granting search and freezing Orders in relation to claims made in other jurisdictions
-  Mutual recognition of judicial decisions

Cyberterrorism

-  European arrest warrant
-  Closure of financial loopholes
-  Creation of an anti terrorist department within Europol

(Resolution of European Commission - 21/9/01)

Summary

Speed, Surprise and Strategy

Viability

Liability of Accessories

Money Laundering and Cyber Crime Convention 2001

A Recent Case of Electronic Fraud and Recovery

Steven Philippsohn

Head of Commercial Fraud
Philippsohn Crawfords Berwald

Email: snp@pcbsols.com

Web Site: www.pcbsols.com

Caracas, Venezuela -Thursday, 11 October 2001