ICC warnings highlight Internet’s potential for preventing financial instrument fraud

Warnings posted on the ICC website have made a major contribution to thwarting an attempted fraud offering Bank Guarantees as an investment product; in the process demonstrating the potential of the Internet as a tool for preventing fraud.

The fake financial instrument offer, originating from a company incorporated in Fort Myers, Florida, in September 2002 and bearing an address in Affeltrangen, Switzerland, attempts to persuade potential victims to buy Bank Guarantees at a discount. The Guarantees, which have a face value of anything from $5 million to $600 million, appear to be tied to major UK high street and European banks and are being offered at discounts up to 41%. The scheme is that investors buy these Guarantees at the discounted price and can redeem their full face value in one year’s time, in the process pocketing a healthy profit.

Needless to say, anything that appears this good to be true usually is, and this scam is no different. As many people know, Banks Guarantees are not investment products: they are actually issued by banks to cover the liability of a third party that the issuer agrees to repay. Banks do not issue guarantees for this type of proposition and the actual fraud in this case is that of raising an advance fee of 1% of the Guarantee’s face value to cover alleged due diligence and administration procedures.

Fortunately, the increased awareness generated in recent months by the ICC Commercial Crime Bureau (CCB) over the whole question of fraudulent financial instruments, and aired via the ICC website (www.icc-ccs.org), the Commercial Crime International newsletter, and in the pages of its book – Preventing Financial Instrument Fraud – appears to be getting through to many of those being targeted by the fraudsters, who now admit to actively monitoring the ICC site for specific warnings. As a result, the mostly East European banks and traders who received an invitation to buy the Guarantees in this case, sought to check its bona-fides with the CCB before proceeding and were able to quickly discover it was a scam.

In fact, a quick inspection of the Guarantee and its associated documentation by a trained eye reveals many of the red flag warnings the CCB has been highlighting on the ICC website and in its recently published book on the subject. These include use of the terms irrevocable and unconditional, ready willing and able, good clean clear and legal funds from non-criminal origin, non-circumvention and non-disclosure, and reference to ICC 500-600 (600 has not been published).

The Letter of Intent required before the Guarantee is issued also uses the phrase ‘Age – Fresh Cut’ to describe the funds, a fictional term that has not been seen since the mid/late 1990s, and the stated method of payment – Irrevocable Conditional Payment Order – is not one used in legitimate banking.

continued on page 2
US suffers new wave of investment fraud

PRIME Bank and High-Yield investment scheme frauds are making a big comeback in the US as bear-market weary investors grasp any chance to make better returns than the typical money market yield of less than 1%. The result is that many people have been devastated and wiped out by these supposedly legitimate businesses.

The number of scams currently in operation is hard to quantify, but they are sufficiently prevalent to cause nine government agencies to post warnings about them on their web sites. In March, a 17-city sweep by FBI agents stretching from Los Angeles and Sacramento to Denver, Dallas, New Orleans, Boston and New York, netted a number of suspects who between them are thought to have defrauded investors of $500 million. And despite its preoccupation with tracking terrorists, the FBI says that putting an end to high-dollar frauds and other white-collar crimes continues to be a top priority.

After all but dying out in the late 1990s, the new outbreak of investment fraud is still following a traditional path, offering ‘secret’ banking deals and confusing investors with a combination of real banking industry jargon and jibberish. The promise, as always, is of huge profits in a short time with no risk, and the advice, as always, is not to become involved in anything you don’t understand however good it sounds.

US targets money laundering

THE US Treasury is demanding that all US financial institutions terminate correspondent accounts with banks from the tiny South Pacific island of Naru, which was designated a primary money laundering concern in December last year.

The action has been taken under the auspices of the USA Patriot Act, which came into force shortly after the terrorist attacks of 9/11. The law enables the government to impose special measures against jurisdictions, financial institutions and types of accounts that are thought to be deficient in money laundering controls or to have weak anti-money laundering regimes.

In another move to close a suspected money laundering loophole, the US Postal Service has announced that it will start charging US banks back for money drawn on account at the New York Federal Reserve to cover domestic money taken out or deposited at correspondent banks.

Domestic money orders are not supposed to be honoured at offshore banks but the USPS, which sells more than 200 million money orders a year, has found that around $100,000 million worth are deposited offshore every month, indicating possible laundering activity. By charging the banks it is hoping to close this potential laundering pipeline.

CCS confirms Annual Lecture programme

The programme for the 2003 Commercial Crime Services Annual Lecture is now confirmed and will offer a number of important presentations that compliment the evening’s main event on

Managing Corporate Security Risks in the post 9/11 World
by Brian Jenkins, a leading authority of economic crime and terrorism.

These include:
The Maritime Risk - The Impact of Terrorism - Lessons from the Limburg by Captain Peter Raes, MD of the vessel’s operators Tecto & Franship.
The Identity Risk - Fake Documents and Stolen Identities by Graham Dowling, Fraud prevention officer, Metropolitan Police Fraud Squad.

The Lecture takes place in London on 18th June 2003 from 3.00pm. Invitations will be sent out in early May. Look out for yours and be sure to register quickly for this very popular business and social event.

ICC website warnings from page 1

"It appears our warnings posted on the Internet are having a very positive effect and I am delighted that traders have been sufficiently concerned by what we have to say to check out their suspicions with the CCB before parting with any money," says Jon Merrett, CCB Assistant Director.

"We were quickly able to point out the flaws in the proposition and given the face value of these fake Bank Guarantees, may well have saved the potential victims a considerable amount of money. Preventing financial fraud is our primary objective and it is pleasing to be able to show how the Internet can be a valuable resource in the prevention of crime at a time when it is so often used to perpetrate international fraud," he adds.

Anyone offered an investment opportunity supported by a financial instrument can have it checked out by the CCB for a nominal cost. Call +44(0) 208 591 3000 or email ccb@cc-ccs.org.uk for details.
IMB helps police secure conviction of serial fraudster

GLENN McCorquodale, a 38-year-old Commodities Trader, has been sentenced to four years in jail after being convicted on seven counts of forgery relating to obtaining monies using false documents to support Letters of Credit that were subsequently submitted by victims to pay for non-existent commodities such as peas, beans and scrap metal.

McCorquodale owes his conviction in no small part to the investigation carried out by the International Maritime Bureau (IMB) who had been piecing his activities together over a number of years and were able to furnish the Metropolitan Police with a great amount of additional detail when he was finally arrested in London. Without this weight of evidence, it is possible that the police would have only been able to proceed against McCorquodale on the basis of the one complaint they had received when in fact he was a known serial fraudster.

McCorquodale specialised in deals involving small amounts of phantom commodities, something he called merchant trading. Using an alias, he would approach a trading company and ask to use their company name and bank account to negotiate Letters of Credit in return for a commission well in excess of what could be considered normal, something that is extremely unadvisable and risky at any time. Once the deal was done, he would inevitably pay the commission and disappear, leaving the company fronting it to answer questions when the goods did not arrive.

McCorquodale was caught when one of his earlier victims spotted him by chance at a London Underground station and alerted the police, a rather unfortunate event as he had been very careful to cover his tracks by only dealing in sufficiently small amounts of commodities that individually made their non arrival commercially unviable to investigate and prosecute. A typical amount was in the region of $200,000, but the accumulated total was known to exceed $1 million. The court determined that McCorquodale benefited from his criminality to the tune of £616,906.

A number of the banks defrauded by McCorquodale did however send the Bills of Lading relating to his trades to the IMB for inspection and by looking at these IMB investigators were able to identify patterns within the deceit that revealed how the fraud was done. Subsequently, the IMB was able to issue a warning about the modus operandi to banks that served to make them more alert to future approaches, which came disguised from a number of different sources.

After examining nine separate cases of fraud, the IMB determined they all involved shipments from East Africa to the Indian sub-continent, and were usually of commodities such as lentils and chickpeas. Moreover, the commodities were always offered at between £10-15 per tonne below market rates and the Bill of Lading always showed them to be in containers, many of which had the same prefix, which would be very unusual but not impossible.

It is unknown how many of McCorquodale's frauds were thwarted by the IMB warning to banks issued in 2000, but when approached by the Metropolitan Police for expert advice about the one case they were investigating the IMB was able to pass on the details of the other nine cases it had on file, in the process considerably strengthening the case against McCorquodale and ultimately the chances of a conviction.

The IMB investigation into McCorquodale's activities also highlights the organisation's unique role in being able to spot patterns and trends in frauds that would not be evident to agencies looking at single cases, and its ability to collate information into a format suitable for promulgation to help prevent future instances of the same fraud, however they might be disguised.

Beware abnormal commodity weights

FLORIDA Professor Dr. John Zdanowicz has revealed the results of a study into the weights of imported goods in containers that suggest they may be being used for criminal purposes.

Dr Zdanowicz, who has previously shown how grossly abnormal trade prices concealed the international movement of money, told delegates at Money Laundering Alert's recent conference in Miami that abnormal weight could be concealing a number of things, including money, explosives, drugs or other contraband. To support the claim, he produced evidence of some of the weight anomalies his study found from imports into the ports of Los Angeles and San Francisco from nations on the US State Department's list of Al Qaeda countries from May to December 2001.

Coffee from Indonesia weighed 1.26 kilograms per kilo, televisions from Malaysia weighed 202 kilograms per unit, pens from Malaysia weighed 8.7 kilograms per unit, brief cases from Malaysia weighed 98 kilograms per unit, carpet from Iran weighed 63 kilograms per square metre, and carpets from Pakistan weighed 62 kilograms per square metre.
Rotterdam moves to restrict influence of organised crime

Security is a growing problem for many large ports around the world and has been particularly acute in Rotterdam in recent years. Given its location and links in the global logistics chain it is not hard to see why it would be an ideal target for organised crime. Several reports have sought to identify the nature of Rotterdam’s criminality and suggest measures to reduce it. Andy Holder outlines their findings.

Rotterdam’s links to the world economy and value to the national economics of The Netherlands is well known to traders and is being exploited by organised crime gangs. The port generates Euro 36.5 billion for the national economy, handles 6 million containers a year, employs 60,000 people directly and another 250,000 indirectly, and annually witnesses the movement of 350,000 crewmembers and passengers. So, it is not surprising this vital European logistics hub has also become a crime haven, incurring losses from theft and corruption that are estimated to run into many millions of Euros.

That said, the important thing is not to confuse security with safety, for despite its increased criminal profile, this major transit port to North America is widely regarded by the USA post 9/11 as one of the safest ports in the world and an example to others. Rotterdam Customs was the first to introduce a mobile container-scanning unit in 1999, adding a second unit last year, and the port was happy to welcome a permanent team from US Customs to help monitor cargo activity to North America.

History
However, reports show Rotterdam has historically been a focus for organised crime activity that still continues today. The Traa Commission Report of 1996 and a study by Erasmus University in 1999 outlined the nature and scope of criminality within the port and led, in 2001, to the publication of a guide to preventing crime designed to benefit contractors within the port and industrial area by describing the risks from external criminal activity and their prevention measures. Further work in 2002 led to the development of a management integrity system.

Logistics Link
Despite this, every year sees large quantities of illegal goods passing through Rotterdam and taken out of the port area by criminals using seemingly bona fide enterprises they have set up for the purpose, abusing knowledge and information they have been able to glean about port practices, and exploiting the existing port infrastructure to commit crime. In so doing, they have been able to make Rotterdam an important link in their own logistics chain, leveraging off its own expertise to become a conduit for crime.

Ironically, criminals have been able to capitalize on the knowledge they have obtained from the port about the benefits of efficient logistics to start moving illegal goods in smaller consignments. This has the effect of attracting lower penalties if they are caught but does not damage their profit margins and improves the versatility of their activities.

Cultural assistance
What they do say is that the multicultural nature of the port makes it easier for criminals to integrate their own people into companies working within the port area to source information, and that there is insufficient screening of employees and little supervision of their movements, thus increasing the temptation for honest workers to get sucked into corruption or even attached to government officials working within the port area to source information, and that there is insufficient screening of employees and little supervision of their movements, thus increasing the temptation for honest workers to get sucked into corruption or pass on sensitive information.

For an example as to how this might translate into crime see CCI December 2002 page 1.

Whilst theft from containers and theft of cargoes of metals are mainly carried out by national crime networks, drug smuggling mostly involves large international organised syndicates, though there are a few small outfits that spend a few
months in the country before moving on. Nearly 90% of the drugs destined for Europe enter via Rotterdam according to estimates, which also say 60-80% of detected heroin movements to Britain come via the port. The Netherlands itself is of course the major producer of ecstasy and Rotterdam the primary destination for the bulk importation of its ingredients.

Seizures are up following increased checks, but the syndicates have adopted new measures to foil them. These include packing drugs in consignments of fruit and vegetables that attempt to utilise their short shelf life and need for speedy onward transit to evade thorough checks, and sacrificing consignments of soft drugs by switching their container numbers with those carrying consignments of hard, more profitable, drugs.

**Arresting cargo theft**

Rotterdam has introduced a number of other measures in an attempt to stop cargo theft and control organised crime activity.

Several sophisticated detection services have been established within the port, along with a security project group that involves all port users and others that both seek to improve the collection of information and find suitable ways to pass it on to police agencies.

There is a core team from the Procureurs-generaal that provides expertise to research and suppress organised criminal activity by building up a picture of criminality within the port and sharing this with the police, public prosecution service and others interested public authorities. The idea is to help these parties understand what is going on by creating inventories of criminal activity and devising plans of information flow so they can work systematically and tackle crime in specific areas and over specific periods using an integrated approach.

**PRC response highlights benefits of intelligence-led action against pirate gangs**

The Kuala Lumpur-based ICC Piracy Reporting Centre demonstrated the increased effectiveness of intelligence-led policing in the fight against international piracy recently when it was able to quickly identify an outbreak of pirate activity and direct the relevant national authorities to the danger area.

Six attacks on vessels in six days in the Gaspar Straits, east of Java, (also known as the Gelasa Straits) in early April prompted the PRC to notify and call upon the Indonesian government to take action. Moreover, by carefully monitoring the pattern of the attacks the Centre was able to direct law enforcement to the position of these attacks, which involved bulk carriers, container ships and a chemical carrier. Later in the month, the Centre performed a similar function when there were four incidents of pirate activity reported in the Malacca Straits.

“If we are to combat piracy effectively it is vital that action be taken quickly before these pirate gangs move to another location,” comments IMB Director Pottengal Mukundan, whose Bureau is responsible for administering the activities of the Piracy Reporting Centre.

“The PRC is specifically designed to perform this role: to help identify piracy hotspots and pass on this information so that local law enforcement can focus its assets more precisely on the target area and increase the chances of catching the gangs perpetrating these crimes, which in some cases are very violent. In one of the recent attacks, for instance, the Master and Chief Officer were severely beaten. In another, on a chemical carrier, the bridge crew was tied up for the duration of the attack and the vessel was effectively not under command.

“The implications of this latter point should not be overlooked; there is always the possibility of a major environmental disaster caused by the effects of pirate action. A loaded chemical carrier proceeding in a narrow waterway and effectively not under command is worrying. In this context, it is worth noting that there was an attempted attack recently on a VLCC in these waters.

“These gangs cannot be allowed to terrorise shipping and the sooner their actions are detected and responded to the safer everyone will be.

“At the same time, another important facet of the PRC’s work is to continue to pressurize the government of the affected region to step up the severity of the punishment meted out to the members of these gangs when caught. The deterrent is not yet sufficient in many jurisdictions and will only be increased when governments wake up to the reality of piracy and the harm it causes.

“Towards this end, the PRC performs a valuable role by highlighting the cause and effect of pirate actions to those who might otherwise not be fully aware of the potential dangers.”
There is a tendency amongst international business to think that the drugs trade has little impact on the real economy. Not so, says a United Nations agency report, drugs harm legal commerce. Keith Nuthall reports.

The International Narcotics Control Board has to encourage governments to take tough action against illicit drugs and it knows that nothing corrodes effective policing against illegal narcotics than the dubious assumption that the trade actually promotes sustainable development in poor countries.

A key problem is that even the board’s 2002 annual report says that the illicit drugs trade can actually promote business in developing countries in the short term. It provides agricultural work for a large number of poorly skilled people, such as small farmers and itinerant labourers. There is also work for laboratory operators, wholesale distributors, money launderers, retail distributors and runners. Said the report: “Such employment opportunities can be important in economic terms for countries in which there is illicit crop cultivation as well as high levels of unemployment.” Indeed, the report claims that approximately three per cent of the rural population of Afghanistan and Colombia was engaged in illicit drug production by 1999.

However, the board is at pains to point out that this is far from being the whole story; its report “categorically dispels the myth that drug trafficking may constitute a route to prosperity by stressing that illicit drug production prevents economic growth and does not lead to sustainable development in the long-term.” Indeed, it says these beneficiaries are “adversely affected by that illicit activity (which) causes major problems that eventually affect the economic development of the country concerned.” Only a small number of people, mainly those organising the trade, make large profits, it says, stating that “only one per cent of the money ultimately spent by drug abusers is earned as farm income in developing countries. The remaining 99 per cent is earned at various other points along the drug trafficking chain.” What is more, these traffickers tend to spend more money on imports than locally produced goods, it says, spurring less growth than a prosperous legal economy.

Side Effects
Also, “the emergence of a drug economy can result in the destabilisation of the state, the political system, the economy and civil society,” says the report. Drug profits are substantial enough to promote political corruption and insurgencies, such as in Columbia and Myanmar and this in turn deters private investment. “Once the safety of legitimate investments has been jeopardised, the business climate deteriorates and the prospects for new investment decline. With investment levels declining, economic and social progress and thus long-term development are compromised,” said the report. Indeed its data shows that in Peru and Bolivia as illicit coca production fell in the 1990’s, investment ratios rose, and vice versa. Affected governments also have difficulties managing economic decisions, because it is impossible to measure the national economy, when so much is underground.

Notably, said the board, a thriving illegal drugs sector can undermine macroeconomic decisions to counter the flow of illicit profits, encouraging the setting of high interest rates, which also dampens the legitimate economy. Said the report: “The reaction to inflationary pressure often results in the introduction of more severe monetary policies, leading to
What price password security

A second survey on employee scrupulosity has shown they are less security conscious than ever.

The Infosecurity Europe (www.infosec.co.uk) survey found that 90% of office workers moving through a major London station were prepared to give up their computer password in return for a cheap pen, compared with 65% last year. Men were slightly more willing to do so than women.

Workers were asked a series of questions that included “what is your password?” 75% immediately parted with the information. If they initially refused they were asked which category their password fell into and then asked a further question to find out what it was. At this point a further 15% revealed their passwords. The technique is called social engineering and is often used by hackers to gain access to systems, often pretending to be calling from the IT department and requesting a user’s log on and password to ‘resolve a network problem’.

Of the 150 people surveyed, many were happy to explain the origin of their password, which included their name, football team, car, pet’s name and date of birth. The most common password was ‘password’ (12%) and the most popular category was their own name (16%). Two thirds had given their password to a colleague and 75% knew their co-workers passwords. Moreover, two thirds admitted to using the same password for everything, including personal banking sites, making them more vulnerable to financial fraud, personal data loss and even identity theft.

a decline in the money supply and increased interest rates.” However, where such deflationary policies are severe, this can actually knock out legitimate businesses, who do not have the same access to capital that is commanded by the drugs criminals who created the economic problems in the first place. In this way, ill informed governments can exacerbate the difficulties, said the board.

Meanwhile, the inflow of illicit profits and declining legitimate exports can also lead to an overvalued exchange rate. These “pose problems for domestic industry producing for the local market because domestic production will be increasingly substituted by imports,” said the report. “Thus, overvalued exchange rates can ruin entire economic sectors, which, once they cease to exist, may be difficult to re-establish.” Also, the encouragement of ‘conspicuous consumption’ in the drug sector (expensive cars, yachts, electronic equipment and clothing, usually imported) may reduce “long-term investment” that “otherwise would have taken place.” For instance, the high import content of consumed goods may upset a country’s trade balance, “prompting foreign banks to increase the credit risk of the country, resulting in overall higher interest rates and thus less investment.”

Money Laundering

Regarding the need for money laundering, this encourages “investment in non-productive sectors,” said the board, such as real estate and the entertainment industry (including gambling and brothels). “Many of those investments do not constitute a sound basis for long-term development, the only goal being either short-term profits or money-laundering,” said its report. Also, it adds: “illicitly funded business enterprises may squeeze legitimate competitors out of the market by underselling goods or services. These businesses usually serve as money laundering ‘front’ companies, charging low prices which do not reflect efficiency but “may force far more efficient, legitimate companies out of business, leaving entire sectors in the hands of unlawful enterprises,” and deterring new competitors from entering a market.

Another problem caused by this kind of investment is lack of continuity, said the report. “Because of its illegality, the illicit drug operation may be suddenly disrupted and related investments may decline or disappear due to law enforcement actions and prosecution. As a consequence, several illicit drug production and trafficking areas have undergone steep boom and bust cycles.” Finally, the board is concerned that the illegal drugs trade “exacerbates unequal income distribution,” causing increased social problems that can also damage economies.

Pharmaceuticals Vulnerable

The report also looks at the pharmaceuticals sector, which is seen as particularly vulnerable, because of its abuse by drug traffickers to source the precursors they need to manufacture illicit drugs. This can of course result in additional sales for companies who are not scrupulous about their trading partners, although this carries the risk of substantial embarrassment, if such links are uncovered by such schemes as the board’s Project Prism. The report also cites its concern that the worldwide legal market in opiates for pain relief “may get out of control with supply currently exceeding demand.” It warns that cultivation and production levels are far in excess of medical consumption “and an increased risk exists that stocks could be diverted to the illegal drugs market,” notably in developing countries.

Carrying out a fraud investigation?

It is certain that you will be required to conduct an interview, which may involve tape recorders, stenographers and a cast of thousands, or just be a background 'chat' with the fraudster’s co-workers in order to find out how the department or company operated. Either way, there are a number of basic interview skills to consider.

David Liddell, a Partner at PKF, outlines several areas that must be considered before conducting a fraud interview, looks at the interview process itself, considers questioning strategies and the various stages of the interview.

Fraudster gets 15 years

David Swanson, the former CEO of US company Countrymark Cooperative, has been jailed for 15 years after being found guilty of defrauding the farm product firm and a partner out of $2.7 million.

Swanson was found guilty on 19 counts, including tax evasion, fraud, money laundering and receiving money stolen from Countrymark. He was accused of using a shell company to skim over $2 million from the $35 million his Indianapolis based company spent buying a Mexican feed firm from Unilever in 1996. He was also accused of using another shell company to skim $284,000 off Countrymark’s $15 million purchase of an Ohio feed company in the same year, and when Countrymark sold it on the following year it was alleged he had used a third shell company to pocket a $400,000 fee.

Effective interviewing techniques

An interview is any purposeful, face-to-face communication operating within legal rules and ranging from the most rudimentary gathering of information from an individual to official interviews carried out by the police.

The whole technique of skilled interviewing is to build an atmosphere of trust in which the initial desire to remain silent is replaced by an urge to confide in the questioner.

This definition highlights a very important issue for someone investigating a fraud. The fraudster’s colleagues may have known what the person had been doing but may have felt that they were not in a position to do anything about it. An interviewer has to break through the other person’s fears and reticence. This may require more than just smiling at the person sitting across the table. The key (as with all aspects of interviewing) is in the preparation, which should include background research on the company, the industry and the interviewee concerned.

There are three important elements to the pre-interview groundwork that must not be overlooked:

The Interview Room: If you are able to choose the interview room, the last thing you should do is turn up a minute or so before the interview and sit behind the desk with your arms folded awaiting the interviewee’s arrival. Many people can remember a job interview in a room set up in that way, and the strong desire to escape as soon as possible. Here are a few practical tips on how to set up the interview room:

Tip 1. Arrange the furniture

If you are not using a table, arrange the chairs almost at right angles to each other so that you are not directly facing the interviewee. Many people do not like direct eye contact especially if they are feeling nervous.

Tip 2. Observe body language

Try to avoid positioning yourself directly behind a table. Not only will the table be a barrier between you and the interviewee, but also it will obscure the lower half of his body. Body language is very important, so try to sit at the end of the table and ensure that the chairs are set back. This will ensure that you get a full picture of the interviewee’s body language and will also allow you to write your notes on the end of the table.

Tip 3. Don’t appear threatening

Do not arrange the furniture between the interviewee and the door. If you do, you will be acting as a barrier to the interviewee should he wish to leave the room. In any event it is more threatening for him.

Preparing a Caution: The words “You do not have to say anything... anything you say may be given in evidence” are familiar to most people. But, they are for the police to worry about and do not apply to you as a fraud investigator, or do they?

The answer is yes and no. You have to look to the Police and Criminal Evidence Act 1984, which states that people who are charged with a duty of investigating offences should have regard to Codes of Practice. Codes of Practice 10.1 says “A person whom there are grounds to suspect of an offence must be cautioned... if his answers or silence may
Fraud

be given in evidence to a Court in a prosecution.” So should you give a caution or not? It's very difficult to give prescriptive advice but at the very least legal advice should be sought in order to determine whether you have been charged with a duty of investigating offences.

Interviewer's Attitude: A final thing you should consider before the interview is your own attitude. In the figure below, if you are the interviewee what do you see?

The answer, of course, is a ‘6’. However, if you are the interviewer what do you see? Is it a ‘9’ or is it a ‘6’. Remember that interviews must be conducted with an open mind. Any personal prejudice could well prejudice the findings of the investigation.

Conducting a fraud interview

The most important skill is planning your strategy beforehand.

The main aim of any interview is to obtain information or evidence. To achieve this objective you need to plan your interview strategy so that the interview gradually builds up to the point where the interviewee divulges the information you are seeking. Part of this strategic plan will be to ask different kinds of questions at different stages of the interview. Broadly speaking, there are seven types of question:

- **Open** — why? where? when? how?
- **Closed** — did you? have you?
- **Leading** — how many cheques did you forge?
- **Echoing** — repeats the response as a question
- **Summarising** — summarise responses in the form of a question
- **Multiple** — ask a number of questions
- **Fantasy** — what if? imagine that?

Below is an interviewing strategy that I have found to be very successful. Remember, though, that an ability to change your strategy to meet every situation means that flexibility is one of the golden rules of interviewing.

The six stages of an interview

1. **Introduction**: It is important to establish a rapport and break through the barriers of fear and reluctance, to encourage the subject to confide in you, the questioner. This rapport building is the first stage and requires open questions, which encourage the interviewee to start talking. Try to ask non-specific questions at this stage.

2. **Information**: When your subject starts to feel more relaxed, try to find out what he or she knows about the case. This has to be done without giving away what you already know. From this point you want to encour-

age the interviewee to talk freely about any issues relating to the case that he or she wishes to discuss. Once again, use open questions and demonstrate that you are listening and interested in what is being said.

3. **Clarification**: By now you should be able to determine how much the interviewee knows and how willing he or she is to talk about the issue. This is when you need to start seeking more specific information as you focus on the areas that interest you. Now is the appropriate time to directly address the allegation. Begin to introduce closed questions to clarify information that interests you.

4. **Examination**: During the next stage of the interview you have to start to challenge any lies and use the evidence you have obtained before the interview. Be firm but fair and watch for any signs of submission. Use echoing and summarising questions and watch for contradictions. It is very important to maintain control and show little or no emotion. Do not enter into arguments.

5. **Consolidation**: You should then subtly move into the next stage, where you try to make it easy for your subject to tell the truth. Demonstrate the strength of your case and try to minimise the feelings of guilt. Start to ask more leading questions, “Why did you do it?” rather than “Did you do it?”

6. **Reassurance**: Finally, reassure the interviewee that they have made the right decision in telling you the truth, or giving you the information you desire. You need to answer any questions they have but do not judge, criticise or make any promises you cannot keep.

Developing this sort of strategy takes time. Knowing which questions to use in different circumstances is a vital skill and requires thought and practice. However, the most important skill is planning your strategy beforehand.

The sound of silence

What do you do when you are faced with silence during an interview? As human beings we instinctively dislike silence. It makes us feel uncomfortable and our natural instinct is to say something. As an interviewer you will definitely have to deal with silence at some point. Here are a number of simple techniques for dealing with it:

- Repeat the question
- Ask if the subject understands the question
- Ask open questions
- Ask if the subject needs to have a short break
- Smile and ask if the subject is feeling uncomfortable
- Ignore the silence and move on to the next question
- Meet silence with silence

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Counterfeiting

Counterfeit products are a serious issue in India that affect many industries. They gobble up nearly 5% sales of drugs and consumer products, and over 50% of sales in the music, movies and books industries. In this article, Ashok Chhabra, General Counsel for Procter & Gamble in India, Bangladesh and Sri Lanka, outlines his experience of fighting the menace of counterfeit and look-alike OTC drugs and consumer products.

Examining India’s fight on fakes

An AC Neilson survey has estimated the annual loss to the Indian Consumer Products industry at US$500 million and revenue loss of US$180 million. Another ORG Survey of 12,500 retail stores completed in January 2002 found the counterfeit and look-alikes market to be between 5-15% of the total annual sales of US$12 billion. The Consumer Products industry is not the only one haunted by fakes. The Indian Pharma Alliance claims annual losses of US$800 million to the pharmaceutical industry due to spurious drugs. Other industries like music, movies, and software also suffer from this menace. If the counterfeiting business of all these industries is added up, the size of counterfeit industry would be at least US$6 billion a year and a revenue loss of US$2 billion* (Source: India Today)

It is true that most counterfeit products - including fake drugs - are not harmful, but simply ineffective and manufactured without observing GMP standards. It is in the interest of counterfeiters that people consume fakes without suffering side effects - it keeps the business going and no alarm is raised. A fake Vicks Action 500 may contain just 200 mg of paracetamol compared to 500 mg in the original. But that does not make fakes or look-alikes less risky. In most cases, damage could be slow and irreparable: bleeding gums caused by poor quality toothpastes or hair loss due to poor quality shampoo.

Fakes flourish in India because:
(1) While the laws are adequate and drafted to protect the brand owners and consumers, enforcement of the legal rights is poor. The enforcement machinery is poorly equipped, not trained, bureaucratic and corrupt.
(2) The retail traders are small in size and large in numbers. These retailers are independent mom and pop stores and not part of a chain like Wal-Mart. They act as conduit for getting fake products to consumers.
(3) Consumers suffer but do not protest as they know the enforcement mechanism is weak and un-supportive.

The Brand Protection Committee

Realizing that each company fighting this menace was not getting results, the Brand Protection Committee (BPC) under the aegis of the Federation of Indian Chamber of Commerce and Industry (FICCI) started work in Aug 2000. Its members are companies that suffer most from this menace: Hindustan Lever, Colgate, Procter & Gamble, Gillette, Smith-Kline Beecham, Coke, Pepsi, Marico, Nirma, Tata Tea. Research agencies like AC Neilson and ORG are also members, together with a very prominent consumer body: the Consumer Education Research Council (CERC).

The mission of the BPC is: To work co-operatively with Government authorities, the industry and trade associations, individual companies and other organizations including consumer protection groups to eliminate counterfeit and pass-off consumer products in India. The strategies of the BPC are to:
• Focus on enforcement and application of laws.
• Measure and publicize the negative economic impact of counterfeit/pass off products.
• Open communication channels between stakeholders to generate awareness and stimulate action against counterfeit/pass off products.
• Take actions against infringers via regulatory authorities.

Interviewing techniques

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The last technique can be dangerous, but can work. Your silence may force the interviewee to say something but remember the seven second rule, you have seven seconds in which to decide whether the use of silence is going to work or not. If the subject is obviously not concerned by the silence, move on and use another of these techniques to get them talking again.

Remember not to be sidetracked or to allow the interviewee to take control. Maintaining control is the key and you can only stay in control if you are well prepared. This is why preparation beforehand is at the heart of a successful interview.

If you apply these skills and follow the guidelines you should be able to prompt some response from your interviewee and move closer to achieving your objective.
Counterfeiting

In its dealings so far, the BPC has learnt several things that it believes are useful in the fight against counterfeiting

**Publicize seizure and destruction**
Whenever BPC's team seized fakes in the markets, it obtained court orders for destruction and this was done under the public eye, involving the press and consumer bodies. Names of the infringers were released to the press, who revealed their real face to society: social punishment can be more damaging in India. This tactic made infringers either get out the business or made the social cost of doing this business very prohibitive. Either way, the result was to help reduce fakes in the markets.

**Avoid scares around the Brand**
Marketing people dread the idea of publicizing search and seizure press coverage. They believe it can scare people. When consumers read news of fake brands, they remember the brand and refrain from buying the brand till they think no more fakes are available. With this reality before us, a BPC kind of coalition helps. When seizure of many brands is reported, consumers take it as an industry issue versus a particular brand issue.

**Holograms do not work**
Holograms only work if consumers can effectively be made aware of them. But the cost to do this is high and most of the time it is almost impossible. Even if a company succeeds and advertises holograms heavily, what further action can it take if the fakers copy the holograms? In general, holograms can create confusion.

**A company must have a Response Team**
A company will deploy significant resources to gain 5% sales, but does not display the same agility in recovering similar size sales from fakers. Our experience suggests that a company affected by significant fakes must have a team, headed by a senior business manager and assisted by Legal, Sourcing, Quality Control, Security, Sales, Marketing, Public Affairs, Regulatory Services. This team should meet periodically and track the progress. Unless this is done, the fight against fakers will be uneven.

**Create a crack in the faker’s organization**
Fakers are an organized lot. Create cracks in it. BPC started a reward scheme offering the informer a reward of $10,000 if their information led to the seizure of fake products. This had a symbolic effect. Everyone in the faker’s organization started disbelieving his or her fellow worker, and we noticed that whenever such posters were put in the market place, the incidence of fakes went down substantially during the following three to four months.

**Bring all stakeholders together**
It is important to get all stakeholders together. The stakeholders are: Member Companies, Government Authorities, Consumer Bodies, Regulatory Authorities, Law Enforcing Agencies. BPC set up an interesting tool — www.fake-busters.com, a website that aids its crusade against counterfeit and pass off products.

Fake-busters.com supports the BPC key strategy of opening communication channels between the various stakeholders to generate awareness and stimulate action. It unites all stakeholders and affords a common, actionable interface in the crusade against counterfeit and pass off products. Most importantly, it provides the consumer with on-line actionable information and data, and empowers concerned stakeholders anywhere in the country with a means of getting knowledge and taking action.

**Work with senior Government functionaries**
In an environment where enforcement is weak, support of Government should be sought generously. BPC held many meetings with senior functionaries including Ministers in the Government and also Chief Ministers of States to seek their support. In the beginning the Government took time to react. AC Neilson and ORG reports helped BPC get this support. Once this was provided, we were able to get special cells appointed in the Police Department and Foods and Drug Administration. BPC made a point of keeping the press informed of these developments, using them to send a signal to the fakers that it will chase them out and not permit them to flourish.

**Embassies play an important role**
When governments are lethargic, embassies can play an important role by putting positive pressure on governments to have a business friendly environment. BPC have seen this bring good results. For example: Some BPC members were facing a serious implementation problem in an Indian state - Madhya Pradesh, where the Food and Drug Controller was refusing to cancel the drug licenses of over 30 infringers who were making look-alike drugs under valid drug licenses. BPC informed the US ambassador of this and provided him the list of defaulters. The ambassador was meeting the Chief Minister of the State a few days later. The ambassador cautioned the Minister that investment might dry up in his State if the IPR climate was not improved. The Minister took the BOC list and immediately ordered a suspension of the drug licences. This had a fantastic effect and the problem in the state stopped overnight.

**Keep up the pressure**
Finally, don’t relent and get complacent when the issue subsides. The team should set up a system to periodically check the availability of any fake products. If we fail in this, the problem could re-surface with even greater speed.

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Commercial Crime International 11
CIB to launch new initiative against fake drugs

FAKE drugs kill and will continue to do so until there is a concerted, coordinated international and independent way of gathering intelligence on the scale and nature of the problem that can be used as the basis for devising effective anti-counterfeiting strategies.

Pharmaceutical companies do what they can, but are invariably hampered by a fear of the commercial damage their business could suffer if information about affected products were to reach the public. In an attempt to break the deadlock the ICC Counterfeiting Intelligence Bureau (CIB) is preparing to launch a new Counterfeit Pharmaceuticals Initiative (CPI) that it hopes will receive the necessary support to start to make a significant impact on solving the problem.

Having already worked within the industry as a trusted third party on previous drugs anti-counterfeiting projects, the CIB believes it has the necessary experience and credibility to provide pharmaceutical companies with the reassurance over issues of confidentiality they require before committing to the initiative. This will be essential if the all the potential benefits of the proposal are to be realised.

The main objective of the new CPI will be to gather information on counterfeit pharmaceuticals from a wide variety of sources, collate this and disseminate it confidentially to participating companies, regulators and law enforcement on a regular basis. Also provided will be a website to serve as a conduit to educate, inform and collect intelligence, as well as provide participating companies with a list of suitable contact points within national customs, law enforcement and government that can assist them, plus a new channel of communication by which they can share information on proven strategies for detection and investigation. The initiative will additionally seek to advise on ways in which products can be better protected against counterfeiting, and explore the means to tackle the growing sale of fake drugs online.

“I believe this is a worthwhile and valuable project, and I welcome input from the pharmaceutical industry to help with establishing the parameters, as well as support in the way of funding,” says CIB Director Peter Lowe.

“The concept, as outlined, has already attracted a great deal of interest and with industry support can be translated into reality this year, with the benefits starting to be seen very soon afterwards.”