Collas Crill wins first prosecution of its kind in Jersey

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In the first prosecution of its kind in Jersey, the Royal Court has acquitted Michelle Jardine (represented by Advocate Nuno Santos-Costa) and STM Fiduciaire Limited ("STM") (represented by Advocate David Steenson) of charges under the Proceeds of Crime (Jersey) Law 1999 (POCA). Lasting for four days, the result of this trial should give a measure of comfort to financial institutions, MLROs and directors of companies alike whilst also highlighting the importance of these roles in assessing risk and combatting cross-border crimes such as money-laundering. The offences carry with them penalties of up to five years imprisonment.

Mrs Jardine and STM were charged with alternative offences under 34A and 34D of POCA. It was alleged that Mrs Jardine knew or suspected or had reasonable grounds to know or suspect that a person was engaged in money laundering. Both of the charges under POCA relate to a failure to disclose information to the Jersey Financial Crimes Unit on the basis of information received. The distinction between the two charges relates to whether such information was received in the course of a trade, profession, business or employment or whether the information came to them in the course of carrying out a financial services business.

The alleged offences related to actions that took place between 1 May 2011 and 30 June 2011. At that time, Mrs Jardine was the designated MLRO and director for STM. She was also a director of a company known as Henley & Partners. It was the Prosecution's case that Mrs Jardine and STM failed to report a 'suspicious' transaction involving a politically-exposed person (or PEP) from a high-risk jurisdiction, in circumstances where the funds were remitted to them by an unknown third party.

The Royal Court heard evidence from JFSC officials, members of the Jersey Financial Crimes Unit, as well as from Mrs Jardine. During the course of this evidence the Court heard was referred to the Codes of Practice issued by the JFSC and to the various factors to be considered when assessing whether or not there is a risk of money-laundering.

Once all of the evidence was heard it was argued by defence counsel that, in deciding to convict under either of these offences, the Court would set an extremely low criminal threshold for the finance industry as a whole as to when suspicious activity reports should be made.

Senior Partner, Nuno Santos-Costa, who represented Mrs Jardine, said: "This is the first time anyone has faced a criminal prosecution for failing to file a Suspicious Activity Report as opposed to facing civil regulatory sanctions, and whilst alarm bells should sound when dealing with PEPs and high-risk jurisdictions, this Judgment has shown that, with prudent and diligent background searches, the processes undertaken by Mrs Jardine can withstand scrutiny."

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