

## Vladimiro Montesinos (Cayman Islands)

**Case ID:**

ARW-191

**Jurisdiction of Origin of Public Official or Entity Allegedly Involved:**

Peru

**Position of Public Official(s) (yrs in office):**

De facto chief of intelligence and main advisor of former Peruvian President Alberto Fujimori (1990-2000)

**Jurisdiction of Asset Recovery:**

Cayman Islands

**Jurisdiction of Asset Recovery ? Description:**

Location of Recovery Effort, Asset Location / Alleged Asset Location

**Asset Recovery Start:**

2001

**Asset Recovery End:**

Ongoing

**UNCAC Offenses Implicated:**

Art.15

Art.16

Art.17

Art.18

Art.23

**Money laundering Implicated:**

Yes

**Legal Basis for Asset Recovery:**

Actions Initiated by Foreign Jurisdiction

**Intl.Cooperation: MLAT/Letter of Request?:**

Letter of Request

**Basis for Intl Cooperation:**

Powers Granted to Cayman Grand Court under the Proceeds of Criminal Conduct Law

**Contributing Factors in Asset Recovery:**

"Effective results were achieved because of the willingness on the part of the Cayman authorities, to take recourse to restrain the money itself in rem out of concern that the local laws were also being violated, instead of awaiting a judgment in personam which may never have been forthcoming because of the fugitive status of the perpetrator and which would have to be also enforced to recover the proceeds which would have no doubt taken flight within the restraint. Thus, what began simply as a letter of request to "lift the bank, financial and stock market secrecy procedures, as well as to execute a preventive attachment in the form of a restraining order" on all and any bank accounts held in Grand Cayman in the name of Vladimiro Montesinos-Torres or in the name of several other related parties; ended in the repatriation of some \$44 million dollars to Peru, without a trial between the parties having to take place. This happened because in urgent response to the Judicial Request from Peru, a restraint order was obtained from the Cayman Court, freezing the bank accounts which could be identified. This afforded the Peruvian Government the time it needed to prepare and present its case for the ultimate declaration of its ownership over those accounts as

containing the proceeds of the crime." (Source: Cayman Islands Government webpage on Enforcement of Judgments in Practice," posted at [http://www.gov.ky/portal/page?\\_pageid=1142,1687439&\\_dad=portal&\\_schema=PORTAL](http://www.gov.ky/portal/page?_pageid=1142,1687439&_dad=portal&_schema=PORTAL)).

**Status of Asset Recovery :**

Completed

**Stage in Asset Recovery Chain:**

Assets Returned to Victim or Requesting Jurisdiction

**Agreement for Returned Assets:**

No

**Agreement for Returned Assets - Description:**

N/A

**Case Summary:**

According to Professor Guillermo Jorge, two sets of Montesinos-related funds were involved in the Cayman Islands: (1) Assets restrained in rem with assistance of newly created Financial Intelligence Unit; Waivers signed by account holders, pursuant to their plea bargaining agreements with Peruvian authorities. [Cayman did not have provisions for adopting provisional measures. Order of restraint could only be made where shown there were already proceedings instituted. But the Peruvian request for lifting bank secrecy and freezing assets transformed ex officio into a criminal complaint for money laundering, thereby eliminating the need to wait for an in personam judgment from Peru.] (2) Criminal complaint filed in Cayman against Wiese Sudameris International for suspicion of money laundering and freezing order in rem; financial analysis showed funds were never transferred to Cayman, but stayed in Peru; confiscation orders against funds located in Lima resulted in "repatriation" of \$33 million. (Source: Professor Guillermo Jorge, "The Peruvian efforts to recover the proceeds from Montesinos' criminal network of corruption," presented at Asian Development Bank Regional Seminar, Bali/Indonesia, September 5-7, 2007).

**Disposition of Criminal Case(s):**

According to a case study by Professor Guillermo Jorge, as of September 2007, Mr. Montesinos had been convicted in 13 different trials and more than 70 trials were ongoing. (Source: Guillermo Jorge, "The Peruvian Efforts to Recover Proceeds from Montesinos's Criminal Network of Corruption," in ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, Asset Recovery and Mutual Legal Assistance in Asia and the Pacific, Proceedings of the 6th Regional Seminar on Making International Anti-Corruption Standards Operational Held in Bali, Indonesia, on 5-7 September 2007 and hosted by the Corruption Eradication Commission, Indonesia, accessed at <http://www.adb.org/Documents/Books/Asset-Recovery/Asset-Recovery.pdf>.)

**Jurisdiction of Origin: Investigative Agency:**

Office of the Special State Attorney for the Montesinos/Fujimori Case, Peru

**Jurisdiction of Origin: Prosecuting Authority/Civil Attorney(s):**

Office of the Special State Attorney for the Montesinos/Fujimori Case, Peru

**Jurisdiction of Asset Recovery: Investigative Agency:**

Financial Reporting Authority (CAYFIN) of the Cayman Islands

**Jurisdiction of Asset Recovery: Prosecuting Authority/Civil Attorney(s):**

Attorney General

**Jurisdiction of Asset Recovery: Courts Involved:**

Grand Court

**Documents:**

Montesinos\_Cayman\_Islands\_Chief\_Justice\_Speech\_May\_2006.PDF

Montesinos\_Cayman\_Islands\_Enforcement\_Judgments.pdf

Montesinos\_Jorge\_Case\_Study\_ADB\_2007.pdf

Montesinos\_StAR\_Case\_Study.pdf

**Documents:**

<b>Attachment</b>	<b>Size</b>
 Montesinos_Cayman_Islands_Chief_Justice_Speech_May_2006.PDF	149.01 KB

**Documents Links:**

[http://www1.worldbank.org/finance/star\\_site/documents/arw/Montesinos\\_Cay...](http://www1.worldbank.org/finance/star_site/documents/arw/Montesinos_Cay...)

[http://www1.worldbank.org/finance/star\\_site/documents/arw/Montesinos\\_Jor...](http://www1.worldbank.org/finance/star_site/documents/arw/Montesinos_Jor...)

[http://www1.worldbank.org/finance/star\\_site/documents/arw/Montesinos\\_StA...](http://www1.worldbank.org/finance/star_site/documents/arw/Montesinos_StA...)

**Other Sources:**

StAR Case study at

[http://www1.worldbank.org/publicsector/star\\_site/documents/Case\\_Studies\\_...](http://www1.worldbank.org/publicsector/star_site/documents/Case_Studies_...) Professor Guillermo Jorge, "The Peruvian efforts to recover proceeds from Montesinos' criminal network of corruption," Background paper presented at the Asian Development Bank's Regional Seminar for Asia-Pacific, "Making international anti-corruption standards operational: Asset Recovery and mutual legal assistance," September 5-7, 2007 (Bali, Indonesia), at 1 and 23 and fn 56, accessed at <http://www.adb.org/Documents/Books/Asset-Recovery/Asset-Recovery.pdf>.; Cayman Islands Government webpage on Enforcement of Judgments in Practice," posted at

[http://www.gov.ky/portal/page?\\_pageid=1142,1687439&\\_dad=portal&\\_schema=P...](http://www.gov.ky/portal/page?_pageid=1142,1687439&_dad=portal&_schema=P...)) and a speech by Hon. Anthony Smellie, Chief Justice and Mutual Legal Assistance Authority, The Royal Cayman Islands, "FORFEITING THE PROCEEDS OF CORRUPTION," A Seminar on Asset Forfeiture and Money Laundering for Member States of the Organization of American States, May 2-5, 2006 in Miami, Florida.