

## **DIEPREYE ALAMIEYESEIGHA**

In July 2007, Chief Diepreye Peter Solomon Alaieyeseigha pleaded guilty to charges of corruption and money laundering. Nigeria was able to recover US\$17.7 million in stolen assets from Alamieyeseigha. Cooperation between Nigeria's Economic and Financial Crimes Commission (EFCC) and the authorities in the United Kingdom and South Africa proved essential in the recovery of these assets.

The Metropolitan Police in London first arrested Alamieyeseigha at Heathrow airport in September 2005 on suspicion of money laundering. An investigation revealed that Alamieyeseigha had a large stash of cash stuffed in suitcases at his home in London, funds in bank accounts, together amounting to US\$2.7million, as well as London real estate worth an estimated US\$15 million.

Alamieyeseigha was released on bail on payment of a surety amounting to US\$2.6 million by his associates and on condition that he surrender his passport and report daily to the police. After losing his appeal on this decision, he left the jurisdiction in November 2005 and returned to Nigeria. In Nigeria, he claimed immunity from prosecution; however he was subsequently removed from office by Bayelsa state's lawmakers—thereby losing his immunity from prosecution. Later that month, Nigeria's EFCC charged him with forty counts of money laundering and corruption and secured a court order freezing assets held in Nigeria.

For assets in the United Kingdom, close cooperation between the EFCC and London Metropolitan Police's Proceeds of Corruption Unit was crucial in the recovery of Alamieyeseigha's stolen assets held overseas<sup>6</sup>. Recovery of the US\$1.5 million in cash seized from Alamieyeseigha's London home was relatively straightforward. The cash was confiscated under the Proceeds of Crime Act on the basis of a court order that the proceeds represented proceeds of crime. In May 2006, the court ordered the funds to be repaid to Nigeria and the transfer was made a few weeks later.

For the assets in bank accounts however, the process was more challenging. It was suspected by the authorities that Alamieyeseigha had used companies registered in the United Kingdom, South Africa, Seychelles, the British Virgin Islands, and the Bahamas to launder the proceeds and confiscation of these assets required Alamieyeseigha's conviction. Nigerian authorities recognized that this could take considerable time and orders from Nigerian courts would not necessarily be executed automatically by all of these jurisdictions. In addition, the pursuit of legal proceedings in each of these jurisdictions would be a daunting prospect and the EFCC had little evidence linking Alamieyeseigha to these assets and the assets to acts of corruption.

As a result, Nigerian authorities decided to bring civil proceedings in the United Kingdom, while simultaneously pursuing its criminal proceedings in Nigeria. In order to secure evidence, the Nigerian authorities applied to the Court for disclosure of the evidence compiled by the Metropolitan Police in the course of its investigation. This included evidence gathered on the basis court orders compelling solicitors and banks to disclose documents. The Nigerian application was not contested by the Metropolitan Police and granted by the United Kingdom courts. This marked a significant departure from the usual practice - the police do not usually concede to providing evidence gathered through criminal investigations to assist private parties

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<sup>6</sup> See Edwards Angell Palmer & Dodge, *Recovering stolen assets: a case study*, IBA Conference Paris, 24-25 April 2008.

pursuing civil claims - and signaled the United Kingdom's willingness to assist the Nigerian authorities using all the means at its disposal.

Nigeria was able to use this evidence to apply for a worldwide freezing order covering all assets owned directly or indirectly by Alamieyeseigha. Another important piece of evidence was the income and asset declaration submitted by Alamieyeseigha in 1999 when he was first elected state governor. This indicated that Alamieyeseigha had assets amounting to just over half a million dollars and an annual income of just US\$12,000. The United Kingdom High Court issued the worldwide freezing order in December 2005 and simultaneously ordered the disclosure of documents held at banks and by Alamieyeseigha's associates.

In parallel to the criminal proceedings in Nigeria and the civil proceedings in the United Kingdom, the South African Asset Forfeiture Unit initiated proceedings to seize the former governor's luxury penthouse using non-conviction based confiscation. These allowed the South African authorities to seize the stolen assets without the need for a criminal conviction by demonstrating the illegal origin of the funds. Funds were returned to Nigeria following the sale of the property in January 2007.

In order to expedite the case in the United Kingdom, Nigeria's lawyers applied to the High Court for a summary judgment. This application was dismissed on grounds that Alamieyeseigha should have the opportunity to confront his accusers. Defense applications for payment of legal fees from the restrained funds were also turned down, pending disclosure of Alamieyeseigha's worldwide assets.

Ultimately, the case never went to court in the United Kingdom. In July 2007, Alamieyeseigha pleaded guilty before a Nigerian High Court to six charges of making false declaration of assets and caused his companies to plead guilty to 23 charges of money laundering. Alamieyeseigha was sentenced to two years in prison and the court ordered the seizure of assets in Nigeria. Alamieyeseigha's guilty pleas effectively voided his defense in the civil proceedings and in December 2007 the United Kingdom High Court issued a summary judgment confiscating property and a bank account in the United Kingdom. A subsequent judgment in July 2008 led to the confiscation of the remaining assets in the United Kingdom, Denmark and Cyprus. The Nigerian authorities are in the process of disposing of four of Alamieyeseigha's London properties.

Success in the Alamieyeseigha case was largely due to effective cooperation between the Nigerian, United Kingdom and South African authorities and the willingness of these authorities to take the initiative in initiating and supporting proceedings in their own jurisdiction. The case demonstrates how legal proceedings in multiple jurisdictions, following a variety of strategies - in this case conviction-based confiscation, non-conviction based confiscation and civil actions - can be mutually supporting.