

## The Banco Noroeste Fraud

Few people will forget the Banco Noroeste fraud, a huge scam perpetrated by a group of Nigerian 419 fraudsters who for three years persuaded one of the bank's Cayman Island-based employees to send them over millions of its money to invest in a fictitious airport project. **ICC FraudNet member Jide Ogundipe** revisits the story behind the fraud and explains his firm's involvement in international efforts to recover the money.

Brazil 1998. Banco Santander is close to buying the Brazilian Banco Noroeste, but before the sale can go through it wants an explanation of the very high balances in the accounts for offshore deposits of foreign currency. Looking into the matter, Banco Noroeste finds a discrepancy between the account through which the transactions between its Cayman Islands branch and the bank were conducted, and the amount of international transactions recorded in the account held at head office.

Nelson Sakaguchi, head of the bank's Cayman Island branch, is recalled from his holiday for questioning. Initially, he says he lost between \$9 million and \$12 million in currency trades. Later, he admits he invested the bank's money in an airport construction project in Nigeria whose profits are expected shortly. And he also paid a voodoo priestess to pray for the success of the investment.

To cover up some 94 unauthorised wire transfers to 17 different recipients, he recruited two other branch employees to help manipulate the bank's books. When they realised the transfers were illegal, it is alleged they used this knowledge to steal money from the bank for their own purposes.

### One fax wonder

Investigators initially believed Sakaguchi had stolen the money and invented the Nigerian airport investment story to cover himself. But as the investigations continued it became clear he was actually the victim of an elaborate 419 scam that had started with a single fax.

According to the statement Sakaguchi gave to investigators from Nigeria's Economic and Financial Crimes Commission (EFCC), in March 1995 he received a fax inviting him to engage in a business transaction involving an airport in Nigeria. He responded to this invitation and travelled to London to meet with the person he believed had sent the fax. He met with some people in London and paid them \$35,000, believing that the sum of \$39,016,000 would be remitted to the bank.

Nothing arrived, but between May and June 1995, he sent the additional sum of \$4.65 million to Nigeria in seven instalments. Each payment was larger than the one before, the last being for \$1,573,000.80. The fraudsters, who were operating a pretty standard 419 scam, had clearly never seen anything like it and couldn't believe their luck. They had found a real mug; one with an inexhaustible supply of dollars.

Sakaguchi continued to send money in response to telephone calls and faxes for the next three years, sending over \$190 million before, in February 1998, he was suspended from the bank and eventually dismissed. But it didn't end there. After Sakaguchi was suspended by the bank, a further \$250,000 was deposited into one of the accounts used by the fraudsters in Nigeria. He had been

persuaded to hand over his own money this time after being convinced that a further \$1 million would enable the money, now inflated to over \$400 million as a result of accrued 'interest', to be finally sent to Brazil.

Who were these people?

The people responsible for pulling off this major fraud turned out to be Nigerian criminals from Anambra State in Eastern Nigeria. The first faxes were sent by an individual called Nzeribe Edeh Okoli. After he had succeeded in receiving about \$4 million from Sakaguchi, he was cut out of the deal by Emmanuel Odinigwe Nwude and Christian Ikechukwu Anajemba, who between them received a little over \$180 million of Banco Noroeste money.

Despite the fraud, Banco Santander acquired Banco Noroeste but on the condition that the bank's owners deducted an amount equivalent to the stolen money and repaid that sum to Banco Santander.

After this had been done, the former shareholders of Banco Noroeste determined to try to get their money back. After a false start, they engaged William Richey, a Miami lawyer, to lead another tracing and recovery effort. His work eventually led to the conviction of two of the fraudsters and the wife of the third by a Nigerian court, to the tracing of \$184,275,000, and to the recovery - by civil and/or criminal proceedings in the United States (Kentucky, California, New York and Florida), Switzerland (Geneva), England, Hong Kong and Nigeria - of a total of approximately \$138 million. \$94.5 million of this was recovered from assets in Nigeria and recovery efforts continue in Nigeria and Switzerland.

Getting the money back

First, a team of forensic accountants pieced together financial transactions from more than 300 bank accounts in many different countries. The breakthrough in the investigation occurred when the claimants were able to use material uncovered in Switzerland, the jurisdiction to which much of the stolen money was sent. A criminal complaint was lodged in Geneva and monies in an account beneficially owned by Nwude were frozen. These monies (approximately \$5 million) were released to the claimants as part of a settlement entered into by Nwude. However, in addition to the freezing of the money, the claimants also gained access to other documentation that led to the discovery of the path through which other stolen money found its way to Anajemba and Nwude.

The Nigerian legal firm of Sofunde, Osakwe, Ogundipe & Belgore was initially tasked by investigators to obtain information about Anajemba and Nwude, so as to ascertain what assets they controlled, and where such assets were located. In addition, we assisted in getting process issued by courts in Hong Kong, Kentucky, California, Florida and London served upon Nwude, Mrs Anajemba (whose husband was killed in 1998) and the many banks in Nigeria through which monies had passed.

One of the most interesting things we did was to assist in securing the compliance of Nigerian banks with disclosure orders made by the High Court in London. We served the Norwich Pharmacal orders obtained ex-parte in London requiring the banks to provide detailed information about accounts controlled by Anajemba and Nwude, and about transactions undertaken through those accounts. None of these orders could be enforced directly in Nigeria because they did not meet the criteria set out in the statutes. To overcome this, we wrote to the banks at the same time we served

the orders and threatened that if they failed to comply with the disclosure orders, the orders would be enforced in Nigeria by proceeding against accounts held by them in correspondent banks in the United Kingdom. As all these banks had accounts with banks in London, they decided to comply with the orders rather than risk having their businesses disrupted. These discoveries enabled further tracing to take place.

The plan was to conduct all the major litigation outside Nigeria and, thereafter, to seek to enforce favourable decisions in Nigeria, either through reciprocal enforcement of judgments provisions (UK decisions) or through Common Law actions on the decisions themselves. However, in May 2003, the newly formed Economic and Financial Crimes Commission (EFCC) started work and one of its first steps was to move against known fraudsters, which included Nwude and Mrs Anajemba. Their immediate response was to try to bribe senior EFCC officials, but their attempts were recorded on audio and video and both Nwude and Anajemba, and their lawyers, who had delivered the bribes, were prosecuted for bribery.

Cooperating with the EFCC, we then provided information and material that was used during the successful prosecution of Okoli (the original perpetrator), Nwude and Mrs Anajemba.

In June 2005, Mrs Anajemba agreed to pay a total of \$48 million in restitution to the claimants. To date we have recovered \$20 million of this sum, which has been paid to claimants, and we have control over other of her assets sufficient to ensure that the total sum of \$48 million is recovered.

Having seen Anajemba plead guilty, Nwude then approached us for a similar resolution. The agreement reached with him was to pay \$120 million in restitution. He signed the agreement, pleaded guilty in November 2005, and received a five year sentence, along with Okoli. The sale of Nwude's assets in Nigeria has yielded approximately \$84 million, whilst a further sum of \$12 million has been recovered in Switzerland, California and London. The prospects of recovering the outstanding \$24 million are not great, but we believe that we can still recover a further \$5 million or so from other assets surrendered to the claimants in Nigeria.

The work we have undertaken in Nigeria was very much the endgame, with the foundation for what has been achieved laid by the forensic accounting work done by Plave Manten Consulting Group in Miami, the work in Geneva by Me Pierre Schifferli and his firm, in Hong Kong by the firm of Wilkinson & Grist, in London by Peters and Peters, and the work done in various United States jurisdictions led by William Richey in Miami.

It's also worth mentioning that the claimants still have an outstanding action pending in Geneva against Lloyds Bank and Citibank. These are the two banks through which a man called Naresh Asnani allegedly laundered money for Nwude.