

Foresight: The CPA Podcast

Season 2 Episode 8: The CPA's role in fighting corruption and money laundering

David McGuffin: Welcome to the final episode of season 2 of the Foresight Podcast. I'm David McGuffin.

When Russia invaded Ukraine, western countries launched sanctions against Russia and the country's oligarchs. The measures are unprecedented in their scope, but they also highlight the significant challenge governments face in cracking down on corruption. As corruption has become more sophisticated and complex, the role of the accountants in combating it has grown.

In Canada, there are a number of new measures aimed at cracking down on money laundering. Later in this episode, we'll break down exactly what those new regulations mean for CPAs in Canada. But first, we're going to take a step back and take a broad look at how corruption has evolved and the role of CPAs encountering it.

José Hernandez is the Founder and Chief Executive Officer of Ortus, a consulting firm that helps companies rebuild ethics and compliance programs. Prior to this, he founded FGI Europe, along with former FBI director, Louis J. Freeh. José has been closely involved in unraveling many high-profile corruption cases over the past two and a half decades. And he frequently offers expert testimony to legislatures, parliaments, and governments on combating corruption. We reached José Hernandez in Amsterdam. José, welcome to the Foresight podcast.

José R. Hernandez: Thank you. It's a real pleasure to be here with you, David.

David McGuffin: Looking at the bigger picture and looking at this case of Ukraine right now, what is that teaching us about corruption?

José R. Hernandez: I think the first lesson is that accepting, tolerating corrupt regimes for an extended period of time, does inflict a tremendous human toll. I'm sitting in Amsterdam, we're in Europe. So we're seeing the refugees flood into the Netherlands and we're hosting some at an apartment that we have. And it's terrible, terrible to see, but if you think about it, we've known about corruption in Russia. We've known about how certain individuals had ill-gotten gains through corrupt means, and that we tolerated it.



The warning signs were there and this is just a reminder also about the fragility of safety. I mean, I was born in El Salvador, so I understand that there is a premium that should be paid for democracy, for safety, for having freedom and liberties. And in many ways, we become too complacent. So now it's time to face up to the things that we've had. We really have to fight. And as accountants, particularly, that we're custodians of this financial system. We need to fight even harder.

David McGuffin: You mentioned about accountants being the custodians of the system we have in place in the world today. I mean, looking at fraud internationally, how would you say it affects accountants most directly right now?

José R. Hernandez: I think the first part, if you look at these major cases of money laundering, corruption, and fraud, the first questions that people ask ... Well, no, now the first one is who did it? And the second one or the third one would be, where were the accountants in this process? And they'll give you an example of Russia because we're talking a lot about Russia, but in Russia, when you go down, they've learnt not to trust each other.

So for an invoice to go out and for a payment to be made, you need good five to 10 stamps and approvals. So you look at it, it's a very inefficient system. And every one of those persons are looking at what's stated in the invoice, looking at the attachment, but very few people ask, what is this payment really for?

So you create a system where you create a false sense of comfort, that just because you have a piece of paper in front of you with a lot of stamps, with a lot of hierarchies involved, that it must be okay. And in fact, in many of, if you look at all the fraud corruptions scandals, payments that went out were approved. Payments with third parties, invoices had to be made, procurement contracts had to be established.

So if you look at it, so why is it that fraud and corruption and money laundering exists? And it is because these very smart people know how to circumvent the system. And so accountants need to be trained and retrained on looking for unusual items, looking for things that are beyond normal and asking those follow-up questions, which as simple as what are these payments really for?

David McGuffin: I'd like to dive into some of the cases you've worked on in the past. And so from a Canadian standpoint, SNC-Lavalin was a very big one. And I'm just wondering if you could remind us what happened in that case and what brought you in there?

José R. Hernandez: So SNC-Lavalin, it's a great Canadian champion in a sector that's very challenging, construction and engineering. And 20 some years ago, at least just a few years ago,



we saw the full transparency of what did happen 20 odd years ago, where during the Gaddafi era, certain payments were made in double digit millions, allegedly by SNC-Lavalin, to individuals who were presumably government officials in order to win contracts in Libya.

A lot of this is interestingly arose because of some of the Switzerland money laundering controls that were set up. They actually arrested one of their vice president of SNC-Lavalin and that's how the web started to unfold. So they had issues with the world bank. Many of SNC-Lavalin's subsidiaries were debarred for 10 plus years. Some individuals have gone to jail, a great number have been prosecuted.

And ultimately, this was settled that now SNC-Lavalin has been reforming for about 10 years or so. And putting remedial measures to ensure these things don't happen again, but also putting compliance control systems to just have that extra assurance that we're going to do business like a good Canadian champion, not go down to the lowest common denominator in a territory like Libya.

David McGuffin: So you've been at this for over 20 years now, I'm just wondering how corruption has changed in that span of your career. How have you seen it change?

José R. Hernandez: So, one of the things that has happened in the last 25 years is the use of third parties. People use shell companies, people use intermediaries, people even use their suppliers to hand out a bribe to another individual and they pay a fee for it, 25% upcharge. There's a commercial arrangement that happens.

So I think what's happened, at least from what I've seen is, we've gone from cash payment, cash bribes handed from one individual to the next, deducted into the P&L and the tax return, to items that you completely obscure in the financial statements, because you've outsourced them through a payment to a third party and that third party, under your direction, hands over money on your behalf, but the reasons to do it have not changed.

Why do you do it? Because you want to win a deal, or you want information. You basically want to cheat. And that's why we have white collar crime. It's just basic cheating. There has been an evolution, but at the same time, because it's also been outsourced, it becomes that much harder to show. And that much harder to prove.

One of my recent cases, we really had to do an investigation and we've searched through all the accounting records, SAP, ledgers, and all that. We couldn't find the bribes, even on emails. When we go in for an investigation, we get access to emails that individuals use for corporate purposes. We couldn't find the bribes there. What was happening and what has been happening is people use WhatsApp. People use chat rooms, people use their personal computers, their personal emails, and



they even keep off-the-books records of, oh, you sent me \$1 million and here's the disbursement, so you have a balance outstanding, almost like an off balance sheet bank account.

But you had to get access to WhatsApp group because these account statements were being sent via WhatsApp group. And when we actually went out into Asia, a couple geographies in Asia to interview the third parties, we actually got them to admit, oh yeah, I was just doing this a favor. But of course, I was making a 20% cut out of this process, but it was all at their direction and it was all because they wanted to get certain payments to certain individuals. But the level of investigation, the level of rigor that you need to find that trail is a lot, it's a much higher bar than what we used to have 10, 20 years ago.

David McGuffin: Just follow the money, it's much harder to follow the money.

José R. Hernandez: You can follow the money, except they're not on your books. You only see the one amount that goes out and the records as to where it went, they're not necessarily sitting on your corporate servers. They're sitting on somebody's phone and somebody's records that may be sitting at home. So it is harder. It is harder. And now you compound it that you have jurisdictions, like the BBI, where you do not really know who owns these entities. And that entity in BBI was probably owned by somebody in Jersey, as you're starting to see now with the oligarchs, as we try to free funds, nobody really knows who owns some of these assets.

David McGuffin: Are there other challenges that the CPA profession is now facing that they didn't 20-25 years ago because of these kinds of new technologies?

José R. Hernandez: Yeah. I think the first challenge now, I think at least maybe a short-term challenge is the pandemic. I think, for me, and I served for the justice department, I was a corporate monitor. I was a deputy corporate monitor on this very large matter, a bribery matter. So our job was to make sure that this organization was fulfilling the terms of their agreement with Department of Justice.

David McGuffin: U.S. Department?

José R. Hernandez: U.S. Department of Justice. So our job is to check that there's compliance and people say, well, how do you do that? How do you check that somebody's in compliance? First thing you do is you go to that location and you speak to the leadership team and you speak with things that are uncomfortable, such as latest investigations, allegations of misconduct, things about culture, things about leadership.

And I'll give you an example. I went to, this was some time ago, we went on a visit to Argentina and they apparently had this great new rehabilitation program and this one company, and we



wanted to talk to the CEO. So we said, tell us about your recent cases. Tell us about some of the things that you've been doing. And he says, "Well, let me tell you, we had this logistics manager who we found out, was paying bribes to all the port authorities and the head of logistics and customs and doing all that stuff."

And we asked him, "So how did you find out?," And he told us. "What'd you do about it?" He said, "I fired him and I told my leadership team, this person is gone." So the second and third day, we actually talked to one level down, the management. And we said, "So tell us about this, about recent cases, recent issues, where you really reset the tone in the organization." And then nobody was coming up with this case. So we actually said, "So tell us about that logistics manager," we said to one of the execs.

He says, "Well, that's quite an interesting case because last Saturday, it was one hell of a party that we actually paid for this head of logistics who retired. And the most amazing part is all the senior figures from the port and from the custom's authority showed up to celebrate his retirement."

So here is a message where a CEO says to you at the very top, I fired this person. And the one level next to you says, we gave him a golden parachute. And in fact, we celebrated everything we've done. So there you know, that whatever efforts, it's basically you've built the house on quick sand because that message of that great opportunity to really fire somebody, set a tone and explain to people, this is what we've done, instead you give them a pass and worse, you actually say to people, look, we will celebrate misconduct under this administration.

So very quickly that CEO understood what he had done and then he looked to go change it. But again, the example of many times, if you're doing that virtually, it's very difficult to do, but if you're there with a person, it's just a little bit more effective. They can still lie to you and tell you a lot of things, so I think the pandemic is one.

I think two is the use of third parties. And traditional financial accounting controls are really aimed at looking at an organization as a standalone, not overseeing controls over activities across the supply chain with third parties. So I think we have to adapt that mindset a little bit as we go through, and then obviously overseeing stuff that is not really in your books. You see a supplier, but you don't see what the supplier does or what a distributor does with your funds.

So I think it's basically, a lot of it is the lens has changed and will continue to change. I think also for accountants geopolitically, you now realize that with globalization, I could have one product delivered from Japan, the second one from Ukraine, the third one from Brazil, the fourth one from



the U.S., and it was all just in time and everything worked perfectly. Now when one of the pieces falls off the puzzle, your whole operation can come to a standstill.

So I think that whole idea of being more resilient in having a plan B behind every supplier, so that sense of strategic thinking, not just about efficiency, but also about robustness and rigor to have a plan B to help you. I think this is where accountants are really well suited to play a leadership role, again, to help an organization become more sustainable.

David McGuffin: Fantastic. Well, José Hernandez, thanks so much for taking the time to talk with us here on the Foresight podcast.

José R. Hernandez: Thank you, David. This was a real pleasure.

David McGuffin: José Hernandez is the founder and the chief executive officer of Ortus. A consulting firm that helps companies rebuild ethics and compliance programs.

So as José said, corruption has changed a lot in the past two decades and the forces behind it continue to find new ways of avoiding detection. The question, is how can governments keep up and more specifically, what is Canada doing to stay ahead of these corrupt practices? To answer this, we're going to focus in on one facet of corruption, money laundering.

The regulations around money laundering in Canada have changed a lot in recent years, and this has real implications for CPAs. Michele Wood-Tweel is CPA Canada's Vice President of Regulatory Affairs. In that role, she supports the council of chief executive's public trust committee. Michele, welcome to the Foresight podcast.

Michele Wood-Tweel: Thank you very much, David. Pleasure to be with you.

David McGuffin: Well, it's great to have you here. So as you heard, José talked about the evolution of corruption in the past couple of decades, looking at money laundering specifically, what has the government of Canada done to try and keep up?

Michele Wood-Tweel: Well, I think they've done a number of different things, David. If you look at the regime, it's been in place in Canada since the 2000s and several times since then, the system has been strengthened. The regime has been strengthened and that's typically done through using legislative and regulatory tools to increase and improve the system.

And that's very true recently, there were a number of indicators around the period of time, 2016 to 2018, that there were deficiencies in Canada's AML regime. And that's both from an international review that took place by the Financial Action Task Force, as well as a parliamentary committee



review that indicated improvements were required to the regime. So the government has acted on a number of those different fronts. We saw a couple of sweeping sets of regulations that were brought in 2019 and 2020, with most of the changes becoming effective June 1, 2021.

David McGuffin: Could you give some of the specific examples of what those most recent changes are?

Michele Wood-Tweel: Yeah. And there's a variety of them, right? So if you look at the system and I can give you one example that I find interesting in that the system has to remain contemporary. So when you think about the regime and the legislation being produced back in 2000, virtual currency wasn't something we were worried about at that time.

So one of the recent changes has been the introduction of requirements around virtual currency, whether it be businesses that are operating in virtual currency, or whether it be individuals or organizations that are in receipt of large amounts of virtual currency. There are now requirements under the regime.

So I would explain that kind of a change as contemporizing the system and keeping up with the times and what is new and what is different and what is a threat to Canada's regime. But then there are other changes and some of these were to level the playing field. And so where you might have had certain reporting entities in Canada, like financial institutions required to do some things, there were other types of reporting entities, like accountants or accounting firms, that weren't required to do the same things. They've leveled the playing field by spreading out those requirements to everybody and increasing the scope essentially of who has to do what.

And then the other kind of change I would signal is that, looking international at what has been done by both the standard setter FATF, or Financial Action Task Force, as well as other countries to strengthen the regimes, Canada needs to keep up. And so looking at the advancement with respect, to talking about beneficial ownership, who really owns a corporation, as an example, to understand who's controlling the assets behind it?

David McGuffin: You say Canada needs to keep up. We've heard Canada being described as a soft target for money laundering. I'm just wondering how true you think that description is?

Michele Wood-Tweel: Well, I guess what I would say is I think that number one, what makes a country attractive for money launderers to target is they look for a system that is relatively safe and secure in terms of the financial system. They look for stability and they look for the ability to have an economy that is relatively strong in terms of the value of the currency.



So if you think about Canada on all of those boxes, I think we check them off pretty well. And that makes us a desirable destination for money launderers to take their money to, and try and park it. These folks, once they've earned the money through ill-gotten means, they don't want to risk it. And so they're looking for the safety and security of a developed and proven economy, so we're there on that note.

I think we've also seen, and certainly have heard of the types of money laundering that have been discovered in the country. Comes to mind very quickly, obviously what BC has gone through. But what you realize as well, when you look at the information that FINTRAC, which is Canada's financial intelligence unit, what it tells you every year in its annual report, is that laundering is a coast to coast issue.

So it's happening in every province and it's happening for a variety of different reasons. Some of it is happening domestically, and some of it is happening internationally, with money destined for Canada. So, yes, I think it's happening. Some folks will work hard to try and put numbers on this amount and very large numbers. I focus less on that and more on the awareness that we all have to have as Canadians, that this is actually taking place in our country. And we need to make sure that we stop it because it harms so many folks.

David McGuffin: You talked about BC as an example, and that involves real estate as the one thing that's really focused there. Is that the most prominent example of money laundering going on in the country right now, or what would that be, if not?

Michele Wood-Tweel: Yeah. I don't know that I'm in a position to say what would be the most prominent or less prominent, but I think we've had several displays of how money laundering does take place. And certainly real estate has been one of those examples. The other one that was an example in British Columbia that has been a focus there are the casinos. That was another area that had been looked at in terms of the government there advancing the Cullen Commission, an inquiry into money laundering in BC.

But we also know there's other things going on. And one of the ones that I think is interesting, and I think there's much more to be learned about it is trade-based money laundering. So this is money laundering that have happens globally and it follows, or is in advance of the trade of goods and products. And people are able to shift money across borders.

It looks like it's all about selling or buying products and services, but in actual fact there's more changing hands there than meets the eye and it can be the cover for money laundering to take place. So you see Canada's border security agency getting involved very much so in looking at the risk of trade based money laundering.



David McGuffin: So what does all that mean then for accountants working in Canada?

Michele Wood-Tweel: What it means I think, David, is from my point of view, is that we have to be super aware of what is taking place. And we have to rise to the occasion to make sure that we're asking the right questions. We can't look at a transaction and just glance at it, accept it. Question it, make sure you understand what ultimately is at the root of that transaction and who's controlling the transaction.

So one of the risks that we know is ever present is that when people try to money launder, they will move money from jurisdiction to jurisdiction. They often move it through shell companies to try and obscure who owns it, or who's controlling it. And they will often try and put people in front of them as individuals who are giving the instructions. So we have to be very aware of whether there's a third party involved in giving an instruction that otherwise might be money laundering occurring.

David McGuffin: So faced with that, then how can a CPA feel assured about the nature of money running through a business? What do they need to be looking out for?

Michele Wood-Tweel: Yeah. So I think there's a couple of different things here. And one is that in our membership, we have individuals that are in public practice than we have individuals that work otherwise, as we call in industry. Whether industry is academia or whether it's a corporation, we call it industry. And so for those in public practice, there are specific requirements, depending on what your activities are under the *Proceeds of Crime (Money Laundering) Terrorist Financing Act*.

So if you conduct activities covered by that legislation, then you have very specific requirements and you need to be aware of what those requirements are and you need to be in compliance with them. Non-compliance is very risky business. And it comes with some very significant complications if you are not complying. If you are a member in industry, and this is where you don't per se have specific requirements under the *Proceeds of Crime (Money Laundering) Terrorist Financing Act*, I still think, obviously, you can't be involved, ethically, we can't be involved in things that are illegal. Money laundering is illegal. So right off the bat, we know we have requirements to ensure that we remain aware and that we are on the lookout for things that are being done criminally. So I think in business, I think that this is exactly in the face of these very specific sanctions. It means that you have to know who you're doing business with, and that you're not engaging in business with these individuals, with these organizations or even making the supply of goods.

So in some of those sanctions, for example, it targets very specifically, that you cannot be sending technology services to Russia, to aid the armed forces in Russia. So there are some very specific



sanctions there. Another one was insurance around aerospace in Russia. So I think you've got to know, if you're in a business, you've got to know whether any of those sanctions apply to you and obviously make sure that you're complying with what the law says. And that's granted, you have to do that at all times.

If you are in business though. And for example, there's the movement of funds that you start to question, if you are looking at trade, like I said, that might be coming through multi different jurisdictions. You start to question, why is that happening? I think you have a responsibility to dig deeper and I think you need to ask the questions and you need to have that sense of skepticism in your mind to look for what is possibly occurring so that you can either rule it out or identify it.

David McGuffin: And how would you recommend accountants stay on top of all these very rapid changes?

Michele Wood-Tweel: Well, I think you've just put your finger on it exactly, is by saying that there a need to be aware of and stay on top of these changes. Because I think in some respects and I'm going to say this as a Canadian first and a CPA second, I think in years gone by, we would've thought Canada was at least somewhat immune to this type of activity. We didn't really think people were coming to Canada to do money laundering. We could envision to different countries in the world where it might be taking place, but it might not be here. And I think we've had a wakeup call and I think the wakeup call tells us it is happening here.

And I think the other thing, through a vantage point, like I have sitting where I do on behalf of CPA Canada nationally, and then also working with international colleagues is that it's ramping up across the globe and Canada is not immune. And as we said at the outset, David, Canada actually is relatively attractive to these folks that are going to break the laws, that then want to secure their funds.

So I think as a CPA profession, I think we have to be aware that the risk is ever present. It's probably increasing. And it probably is something that applies to many more of our members that it may have in 2000, when the law was first created. We need to be aware of what is happening in our businesses.

David McGuffin: Fantastic. Well, Michelle, thank you so much for coming on. This is such a fascinating conversation. I'm sure we could keep going for another hour, but I know we need to let you go, but thank you so much for coming on the podcast.

Michele Wood-Tweel: Thank you, David. It's been a real pleasure.



David McGuffin: That's Michele Wood-Tweel. She's CPA Canada's Vice President of Regulatory Affairs.

Well that's it for this episode of the Foresight podcast. It's also the final episode of this second season of the podcast. We are coming back with a season 3, but in the meantime, please be sure to check out the other episodes from season 1 and season 2. There's a lot of great conversations there to discover. If you are interested in learning more about CPA Canada's Foresight initiative, go to foresight.cpacanada.ca. We'll also have that link for you in the show notes. Foresight: The CPA Podcast is produced by Podcraft Productions. Please be sure to rate and review this episode. It helps others find this podcast. Until next season, I'm David McGuffin. Thank you so much for listening.