

The background of the top section of the page is a photograph of several smooth, dark grey or black stones stacked on top of each other. The stones are out of focus, with the top stone being the most prominent and in sharper focus.

# Case study

Forensic Services

## Innocent party caught under the Criminal Proceeds Confiscation Act 2002

Andrew Howard, Forensic Services

*We were able to work with our client's legal team to have some of the properties in the business released from the restraining order.*

### Highlights

Our client operated a property development business, which they had established with a family member. However, the family member was subsequently charged with drug trafficking. The business assets, being the properties under development and an additional property that had been fully developed and was in the process of being sold as individual units, were restrained under the Criminal Proceeds Confiscation Act 2002.

As the family member charged with drug trafficking was involved with the business both financially and on a day-to-day basis, our client was unable to access those assets - the major assets of the business.

We were able to work with our client's legal team to have some of the properties in the business released from the restraining order.

### The Challenge

The Criminal Proceeds Confiscation Act 2002 is a reverse burden of proof, meaning our client (even though they were an innocent party) still had to prove to the courts that the assets purchased by the business and all costs in developing the properties were sourced from legitimate funds.

*If we were unable to prove these legitimate sources, the assets were at risk of being forfeited...*

The investigation involved the meticulous tracing of all the sources of funds and expenditure in relation to the purchase and development of all properties that had been restrained. If we were unable to prove these legitimate sources, the assets were at risk of being forfeited to the Crown as required by the legislation.

## How we helped

By gathering the relevant evidence required for the preparation of a detailed report, we were able to work with our client's legal team to prove to the courts that our client's property development business was operated from entirely legitimate funds. As a result, our client was able to re-commence their business.

## Client thoughts

The client's first thoughts were to ensure that the assets of their business would not be lost (ie. forfeited to the Crown) due to the actions of the family member and that normal business operations could be re-commenced as soon as possible.

## For the future

While the client is hopeful that he will not face a similar situation again, he has removed this family member from any financial or managerial role in the business and is very aware of who he introduces into the business in the future.

### Related links

[BDO Kendalls Forensic Services](#)

## For more information

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