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Taking Responsibility

BACKGROUND BRIEF: JAMAICAN LOTTERY SCAM

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CARIBBEAN POLICY RESEARCH INSTITUTE
BLOCK H, ALISTER MCINTYRE BUILDING
UNIVERSITY OF THE WEST INDIES, MONA
KINGSTON 7, JAMAICA
TEL: (876) 970-3447 • (876) 970-2910
FAX: (876) 970-4544
EMAIL: INFO@CAPRICARIBBEAN.ORG

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The Lottery Scam

“Advance fee fraud on the internet is a current epidemic that rakes in hundreds of millions of dollars per year. The advent of the internet and proliferation of its use in the 1990s makes it an attractive medium for communicating the fraud, enabling a worldwide reach.”¹

Advance Fee Fraud gets its name from the fact that an investor is asked to pay a fee up front or in advance of receiving any proceeds, money etc.² These types of scams are not unique to Jamaica and in fact have existed in other parts of the world for some time, as evident from the signature by member and non-member States of the Council of Europe of the Convention on Cybercrime in Budapest, on 23 November 2001, long before this became a major issue for Jamaica.

In 1999, the Jamaican Government initiated the liberalization of the telecommunications industry with full liberalization taking effect in March 2003. Since then there has been a burgeoning ICT sector in Jamaica, especially in St. James where there has been significant investment in infrastructure, such as the Barnet Tech Park which according to Jamaica Promotions Corporation (JAMPRO), accounts for approximately US\$350 million of investment. The growth of call centres has not only been a source of employment for many young persons in St. James and neighbouring parishes but may have potentially sown the seeds for the development of the Advance Fee Fraud “*Lottery Scam*”.

The training support scheme which was established to support this sector is also of significance as through HEART many young persons have been trained, according to JAMPRO:

“HEART has introduced a contact centre curriculum to its training programmes. The modular outline for the technical area includes the following broad topic areas: Orientation to the Occupation, Customer Service, Developing Telephone Skills, Selling Products & Services, Basic Computer Technology, and Introduction to Database Management.³ This kind of customer service training can be useful for gaining the thrust and confidence of clients in a telecom marketing environment.”⁴

THE GEOGRAPHICAL REACH OF THE SCAM

Advance payments scams are common across the world and are facilitated through access to modern technology. With the growth of globalization and with it the

1 Joshua J.S. Chang, (2008) "An analysis of advance fee fraud on the internet", Journal of Financial Crime, Vol. 15 Iss: 1, pp.71 - 81

2 Jon Schiller , (2010)Financial Fraud

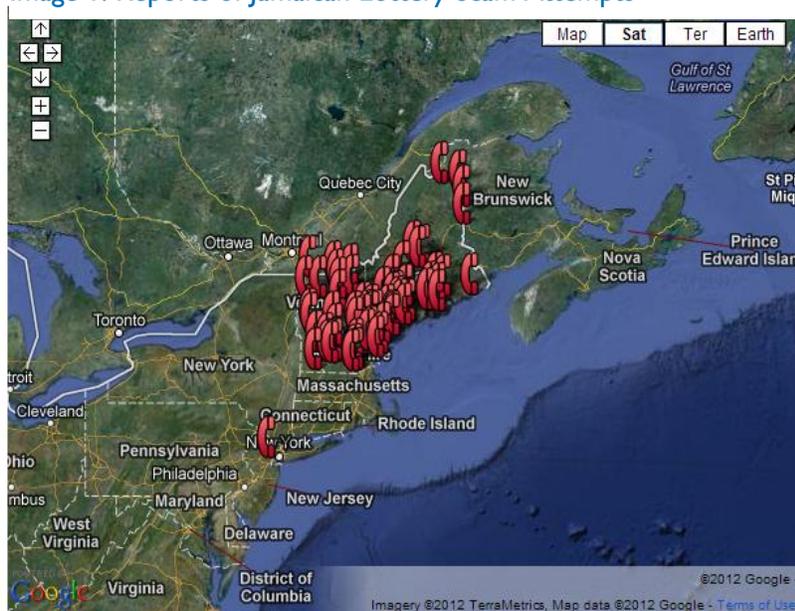
3 <http://db.natlaw.com/interam/jm/fi/sp/spjmcm00002.pdf> pg13.

4 <http://db.natlaw.com/interam/jm/fi/sp/spjmcm00002.pdf>

increasing interconnectedness that characterizes modern society, the relationship between developed and developing countries becomes more visible. This is significant as the evidence suggests that victims of this type of fraud are more likely to be from developed countries and the perpetrators from developing countries.

The focus of the scamming seems to be the US, with which Jamaica has strong economic and spatial ties. A website established in the U.S. to raise awareness of the Jamaican lottery scam (bewareof876.com) reported that, “Over 30,000 calls are made from Jamaica into the U.S. attempting to defraud American citizens every day. Thousands of those calls are made to residents of Maine, New Hampshire, and Vermont.” The map identifies some of the scams reported by FairPoint customers.

Image 1: Reports of Jamaican Lottery Scam Attempts



The scammers also target other areas as well, though less intensively, according to 2009 press release from the Office of Free Trade (OFT). Heather Clayton, OFT Senior Director, said, ‘We know that Jamaican-based lottery fraudsters have actively targeted US consumers in the past but we are now beginning to see this emerge as a problem in the UK.’⁵

The OFT further indicated that the British government has made a substantial investment in seeking to mitigate the impact of the scam;

“We have invested £7.5 million to create 'scambuster' teams across the country. These specialist Trading Standards teams are working hard with the Police and others across local authority boundaries to come down hard on the worst scammers. We are determined to take the fight to these crooks.”

There has also been the setting up of the Consumer Direct website and a helpline, to offer persons advice on how to deal with and avoid being scammed.

According to the BBC article dated 18 December 2009: “The scam has already targeted people in other countries and an estimated \$30m (£18.5m) has been lost in the US.”⁶

“Complaints from American citizens about Jamaican lottery fraud soared from 1,867 in 2007 to about 30,000 last year [2011], and most incidents go unreported out of fear or embarrassment”, according to the U.S. Federal Trade Commission. A representative from the U.S. Postal Inspection Service indicated that, victims are from all over the US

5 <http://www.oftr.gov.uk/news-and-updates/press/2010/07-10>

6 <http://news.bbc.co.uk/2/hi/business/8420634.stm>

some from as far as Hawaii and while there may be pockets that have more victims there is no area that has not being targeted.

The large frequency of reports of suggests that the main focus of the scams is the east coast of the US, especially in areas where there are large populations of Jamaicans.

THE AMOUNTS BEING DEFRAUDED

The amounts being defrauded should not be only based on the amount of funds that have been defrauded. This phenomenon has affected other aspects of victims lives, in fact there is at least one case where it was reported that an elderly lady took her own life after being defrauded her life's savings. These qualitative effects cannot be measured therefore examining the financial impact can create a more reliable means of measuring the effect of this activity on victims.

According to Foxnews.com, 2012;

“Researchers say lottery and sweepstakes fraud is vastly underreported, estimating up to 92 percent of victims stay silent, so exact figures are impossible to tally. But even the most conservative estimates put the yearly take from Jamaican scams at US\$300 million, up from about \$30 million three years ago.”⁷

More conservative estimates were given by the Federal Trade Commission a department of US government; they stated that for 2011 there were approximately 82 million US dollars that had been scammed from American citizen. They hastened to indicate that this figure does not show the true picture of how much has been scammed as it is estimated that as much as 90% of victims do not report that they have been scammed.

To access the amount of money that has been defrauded seems an exceedingly difficult task, the level of reports by victims makes this impossible. But the insidious nature of the activity means that some victims will genuinely not know they have been scammed until late in the engagement. Furthermore, the nature of some of these transactions does not lend themselves to effective tracking, which in itself may be a motivator for criminals.

PROFILE OF VICTIMS

The majority of victims of advance fee fraud in recent years have been senior citizens residing in the United States, in states with high Jamaican populations – New York, New Jersey, Florida, among others. These victims forfeit their social security benefits and life's savings in the hope of receiving large sums of cash for having won a lottery “prize” or having won the right to claim the bequeathed fortune of a recently departed opulent man or woman.

There is often a view of victims of fraud that they are partly to blame and that you can't con an honest man (or woman) (Van Wyk and Benson, 1997). This belief may affect the proportion of persons who report being victims of this type of fraud.

⁷ <http://www.foxnews.com/world/2012/04/17/jamaican-lottery-scams-spread-despite-us-crackdown/#ixzz290Btm2oL>

According to the Office of Fair Trading (OFT), 2006, males are more likely to fall prey to advance fee fraud and are also more likely to lose more money to these scams.

Typically in both Britain and the United States, victims are older persons, generally post retirement. In the previously cited study by Van Wyk and Benson and in other similar studies done on victims of fraud, younger persons were found to be less likely to be victims. Scammers target persons with disposable income. Alt and Wells (2004) suggest that seniors are targeted by scammers because they tend to be more trusting, being raised in a time when a person's word was almost as good as a written contract.

In a BBC World News article date December 18, 2009 one case was referred, a 79-year-old woman from Warwickshire received calls threatening deportation if she failed to pay processing fees to receive a £2.5m lottery "prize". She paid £3,150 before calling the police. This victim fits the general profile of victims targeted by the scammers, typically older persons who tend to live alone or with other older persons. Who in general tend to be more likely to fall victim to these scams or who according to police reports may feel forced to continue making "contributions" out of fear when threatened by scammers.

As stated over 90% of victims stay silent for various reasons. So while the evidence suggests that the victims of this type of fraud tend to be senior citizens who have access to disposable funds. It is very difficult to get a true picture of the victims of the Jamaican lottery scam.

THE IMPACT ON NATIONAL REPUTATION

Since the wide scale marketing of the tourism product in the 1980s, Jamaica has been branded an island paradise - sun, sea, sand and reggae. Since the extensive publicity of the involvement of Jamaicans in advance fee fraud, the impact on the viability of the tourism product has not been quantified but it is thought that the impact could be great.

Only a few international media houses have been reporting on what they explicitly call "the Jamaica lottery scam", but reports have become more frequent since 2009. Recently, BBC in the U.K. and Fox News and HLN in the United States covered the story. HLN conceded in its report that there was little evidence to conclude categorically that Jamaica was the actual source of the scams.

The international attention media attention became most glaring and negative with the "beware of 876" campaign and website created in March 2012. This website is supported by the National Associate of Triads, AARP, and the Maine, Rutland County Vermont and York Country Sheriff Departments and is sponsored by Fair Point Communications.

Local papers have written extensively on this issue with many key stakeholders suggesting that this could have an impact on the perceptions of Jamaica. The evidence however, suggests that much of this belief in a change of perception is based on conjecture. Most of the references to an increase in the negative perception of the country are based on the area that the scams are coming from, St. James, and with Montego Bay being our tourism capital many have argued that it might affect arrivals in that area. The Ministry of Tourism through the Jamaica Tourist Board indicated

however, that no specific indicators related to the lottery scam are recorded and or researched therefore; any fluctuations in arrival numbers cannot be directly correlated.

Gleaner Article dated May 15, 2012 Private Sector of Jamaica (PSOJ) President Joseph Matalon in quoted in reference to the lottery scam saying,

"At a time when we are struggling as a country to eke out growth in our economy, we can ill afford for this growth to be derailed by illegal activity that paints Jamaica, unfairly in my view, as a rogue state."

Through discussions with members of the business community in St. James, they have stated very vociferously that there has been much deleterious effect on their business due to the scamming, especially in the areas of ICT investment and tourism. They argue that tourists are afraid of the area due to the increase in violent crime which business community has associated with the lottery scam. And businesses are afraid to invest in the ICT sector in St. James due to the direct association with the scams. While the business sector has mentioned the negative impact of the scamming, in an article by Lloyd B. Smith, October 23, 2012 in the Jamaica Observer, he indicates that businesses in Montego Bay at some point would have benefited from the proceeds of the lottery scam given the criminals level of cash solvency. The article suggests that this cash bubble may have now come apart due to the increased attention from law enforcement

The potential risk to Jamaica's reputation cannot be underestimated, the likelihood that persons will begin to view Jamaica and Jamaicans as some persons view countries that have a history of fraudulent activity does exist. This kind of reputation could bring with it some strong negative effect on how international businesses view Jamaica as a place for investment. However, this phenomenon is not new and it is not unique to Jamaica, so any negative impact may just be speculative. As yet there has been no 'fallout' from this activity that has affected Jamaica in terms of tourist arrivals or as a place to do business.

THE IMPACT ON SECURITY

There is the perception at least in some circles that this phenomenon has affected citizen and security especially in St. James. However without data to support these arguments they can only be viewed as conjecture. Jamaica has been for a while a society which is known to be violent and where violent crimes are committed regularly (having one of the highest murder rates in the world). Notwithstanding this Jamaica continues to be somewhere that many see as good to live and do business.

According to Akinladejo (2007),

"The weekly and monthly crime statistics for Jamaica excludes economic crimes and this perhaps suggests the lack of seriousness attached to economic crimes such as fraud. Banks are also known to have counted their loss in advance fee fraud incidents and have not followed through with investigations because of a fear of bad publicity."

These statements highlight the difficulty in tracking and measuring the growth and impact of the lottery scam.

The police have indicated that there is a direct link between the lottery scam earnings and the increase in criminality in St. James over the past few years. Some 600 murders have also been linked to lottery scamming in the last five years, Police Commissioner Owen Ellington told the Montego Bay business community during a forum at the Ritz Carlton Rose Hall in May this year (2012).⁸

Over the past few years there has been an increase in criminal activity in St. James, and while it might be feasible to associate this with the “lottery Scam” which has been focused in St. James. There are other factors which may affect this increase in crime in that area. Among this is the migratory nature of crime in Jamaica, which the strong focus on policing and crime prevention in Kingston and St. Andrew and St. Catherine, criminals have moved to other areas and parishes that have not historically seen large numbers of certain types of criminal activity have begun to do so. Parishes such as St. Ann and Clarendon have also seen an increase in major crimes but there is little connection between those parishes and the lottery scam.

JAMAICA’S FINANCIAL AND CYBER FRAUD REGULATIONS

Several regulatory measures have been taken and other are being developed to address using technology to facilitate criminal activity in Jamaica. With the dynamic nature of this type of crime there has to be constant monitoring and revision of the regulations that exist to ensure that criminals cannot function with impunity and that there is adequate dexterity for law enforcement in policing this space. Banking, remittance, Financial and cyber fraud regulations are all interrelated. Legislation dealing with these issues is listed and explained below.

The Ministry of Justice “Cyber Crimes Act” gazetted March 17, 2010, was established to provide enabling legislation for handling criminal activities relating to the internet and computers; *to specifically address Cybercrimes; to make consequential amendments to the Interception of Communications Act, the Mutual Assistance (Criminal Matters) Act and the Proceeds of Crime Act.*

Tabled by the Minister of Finance and Public Service, “The Financial Investigations Divisions Act” was gazetted on March 31, 2010 for the investigation of financial crimes and for connected matters defined financial crime as “*any offence involving money or other benefits and includes any offence involving fraud, dishonesty, money laundering or the financing of terrorist activities.*”⁹ According to the Cabinet legislative programme of 2009/2010, this Act was “*to re-establish the Revenue Protection Department as a department of the Ministry of Finance and the Public Service; and to establish the Financial Investigations Division as a department of Government to investigate financial crimes, with functions to include maintaining intelligence databases on financial crimes, compiling statistics etc*”¹⁰.

⁸ The Jamaica Gleaner, August 2012

⁹ The Financial Investigations Divisions Act, 2010

¹⁰ <http://www.cabinet.gov.jm/files/Legislation%20Programme%20FY%202009-2010%20@%2030%20October%202009.pdf>

The *Proceeds of Crimes Act* (POCA) was passed by Parliament in March 2007 and came into effect on May 30, 2007. POCA is a wide-ranging legislation that targets material benefits derived from the commission of any crime, and incorporates the concept of money laundering as well as introduces the principle of civil procedure.¹¹

In an article from the Jamaica Observer, September 24, 2012, Peter Bunting, Minister of National Security, indicated that the POCA needed amendment to include “lottery scam type activities” to allow easier seizure of proceeds of these activities. Mr. Bunting in the same article suggests the creation of a new law which should address directly Advance Fee Fraud, and suggests that this legislation will be table by 2013. Other legislations are being considered and amendments have been proposed for others to create a more robust regulatory framework to better investigate and prosecute advanced fee fraud.

According to the Jamaica Information Service, September 2012, “Minister of National Security, Hon. Peter Bunting, says plans are far advanced for the *Evidence Act* to be amended, which will allow for the appearance of witnesses by video, for possible prosecution of lotto scammers” so that persons in the US and other jurisdictions will not have to come to Jamaica to give evidence in cases, facilitating prosecutions that may not otherwise go forward.

BANKING AND REMITTANCE REGULATION

Legislation to regulate Money Transfer and Remittance Agents and Agencies was passed in parliament in February 2004 and the regulatory regime came into effect on 5 July 2005.¹² These regulations were put in place to synchronise Jamaica’s financial regulations with international standards which focuses on money laundering and the funding of terrorism.

World Bank Executive Director for Canada, Ireland and the Caribbean, Marie Lucie-Morin, indicated while speaking at a Caribbean Remittance Forum at the Mona Visitors’ Lodge and Conference Centre, University of the West Indies (UWI), Mona, on March 24, 2011, that “Jamaica has a rigorous licensing regime, and the Central Bank, as the regulator of the industry, has published comprehensive guidance procedures for operators, describing regulatory obligations.”¹³

Western Union in Jamaica has indicated that they have had to put in place corrective measures to mitigate some of the ease with which scammers were able to collect moneys from their victims through remittance services. They now require that all customers offer two forms of identification and they have also imposed pay out restrictions.

The regulatory framework in the financial industry in Jamaica is very robust, while this does not mean that there is adequate legislation, as suggested by Mrs. Lucie-Morin much has been done to maintain a well regulated system on part with international standards. There seems however, to be a much greater focus on limiting money laundering when the regulations are examined. There is some emphasis being

11 http://www.boj.org.jm/financial_sys/supervised_legislation.php

12 http://www.boj.org.jm/financial_sys/remittance.php

13 <http://www.jis.gov.jm/news/1-leads/27219>

placed on the need to ensure that these regulatory systems remain effective, as such several legislative and banking regulations are being reviewed or have been identified for revision to increase their efficacy in dealing with fraud and the lottery scam especially since the increase in media attention given to that area.

CONCLUSION

There some key points that have been unearthed during the examination of this phenomenon:

1. There is much hysteria on the part of some Jamaican stakeholders regarding the impact of the lottery scam on key Jamaican sectors. This hysteria is fuelled by the media, for instance, Foxnews.com suggesting that the value of the lottery scam was as much as US\$300 million in one year. Though little context is offered in such reports, there is consensus that there has been a significant increase in ICT-based fraud globally as people become more dependent on ICT networks.
2. While Jamaica's susceptibility to shock will always be an important issue, outside of Jamaica, the Jamaican lottery scam gets very little media attention. Therefore, notwithstanding the almost weekly coverage of some aspect of the lottery scam in local media, the popular international media houses have virtually put the issue to rest – the last report on the Jamaican lottery scam carried by a popular international media house was so done on May 2012 while both the Jamaica Gleaner and Observer have been carrying on average two (2) related articles per week since the establishment of the Anti-Lotto Scam Task Force.
3. There is the lack of a clear and holistic picture of the impact of this phenomenon. This is possibly the case elsewhere but certainly in Jamaica, it has proven very difficult to access information. Key agencies guard information regarding this issue and, in other cases, the information does not exist or is not recorded in a useful manner. A lot of the information about the impact of the lottery scam that exists and the conclusions drawn are based on speculation. What is known is that not much has been proven. For example, the increase in criminal activities in St. James could also be attributed to migrant crime as criminals in parishes such as Kingston, St. Andrew and St. Catherine come under increased pressure, they move to other areas, “greener pastures”.
4. Notwithstanding Point No. 3 (above), criminals do form networks. They use monies gained from scamming, which attracts other criminal elements. So while the criminals may have gone to St. James to elude police in other jurisdictions, their contact with “ill gotten gains” could create a very difficult situation for police in the tourism capital, as these criminals become increasingly sophisticated.
5. There needs to more and stronger regulations that deal directly with this kind of fraud, while banking and remittances sectors are more robust, the regulations still require some improvement. From the judicial and policing side there seems to be more significant work required, what seems necessary is the creation of regulations that have greater prosecutorial intent. With the dynamic nature of

these kinds of crimes it is important that there is some flexibility offered to law enforcement and prosecutors to allow them to keep ahead of these criminals.

Crimes like these can be seen as part of the cost of living in the modern world of global interconnectivity. As a small developing state with a strong ICT infrastructure, Jamaica has been a target for international investors looking to benefit from this infrastructure. With her economic situation and geopolitical link to the USA, the opportunity and motivation for persons with intent to use this infrastructure for criminal activity has also been high. While this may increase in the future if adequate systems are not put in place to mitigate the impact of this criminal activity. Due to the likelihood of further damage being done to the Jamaican economy and to her international image (which is already bad), if left unchecked, resources and expertise have to be gathered to evaluate this phenomenon so that long terms effective solutions can be identify and implemented.

RECOMMENDATIONS

Advance fee fraud can be seen as a natural consequence of living in the modern world of global interconnectivity. As a small developing state with a strong ICT infrastructure, Jamaica has been a haven for international investors seeking to cash in. With its economic situation and geopolitical link to the USA, the opportunity and motivation for persons with intentions to use this infrastructure for criminal activity has also been high. Regrettably this may increase in the future if adequate systems are not put in place to mitigate the impact of this criminal activity, due to the likelihood of further damage being done to the Jamaican economy and to the country's international image. If left unchecked, additional resources and expertise will have to be gathered in order to understand this phenomenon so that long-term, sustainable solutions can be identified and implemented.

There is a lack of a clear and holistic picture of the socio-economic impact of advance fee fraud. Key agencies guard information regarding this issue and, in other cases, the data does not exist or is not collated in a useful manner. A great deal of the information about the impact of the lottery scam that exists and the conclusions drawn are based on speculation and anecdotal evidence.

There are, however, some potential strategies that may be effective in addressing advance fee fraud in Jamaica. These include:

- **The undertaking of more in depth and systematic studies in order to gain a greater understanding of this phenomenon.** For example, the increase in criminal activities in the parish of St. James could also be attributed to migrant crime as criminals in other parishes such as Kingston, St. Andrew and St. Catherine come under increased pressure, they move to other parishes such as St. James, “greener pastures”.
- **Additional research into the impact of advance fee fraud as a global issue may put into context what is happening in Jamaica.** There is much hysteria on the part of some Jamaican stakeholders regarding the impact of the lottery scam on key Jamaican sectors. This hysteria is fuelled by the media. For instance, Foxnews.com suggesting that the value of the lottery scam was as

much as US\$300 million in one year. Though little context is offered in such reports, there is consensus that there has been a significant increase in ICT-based fraud globally as people become more dependent on ICT networks.

- **Establishment of data sharing mechanisms to address the myriad of areas that are impacted by these activities related to advance fee fraud;** this should also facilitate more robust policing and regulatory firewalls that can be set up more efficiently.
- **Publicising of information around the lottery scam.** This information should not solely be focused on its effect in Jamaica which, for some, is seen as positive, but some of the profiles of the actual victims should be examined in the local media.
- **The creation of regulations that limit cash transactions in all business sectors.** With the growing propensity of criminals to form networks, coupled with the significant ‘revenues’ gained the possibility of advance fee fraud burgeoning into “more serious” life threatening crimes is real and must be considered. Already this has been suggested by the police as the cause of the increase in crime in the parish of St. James and its environs As these criminals become increasingly sophisticated, it is necessary, as suggested by ACP Felice who heads the Financial Investigation Division of the Jamaica Constabulary Force, to attack the criminals where it hurts their money.
- **Increased research on the use of technology to address some of the issues surrounding this phenomenon.** Very little studies address this issue.
- **The development and implementation of more and stronger regulations that deal directly with this kind of fraud.** While the banking and remittances sectors have been attempting to establish preventable measures, additional improvements are still required.
- **More significant work from the judicial and policing side.** What seems necessary is the creation of regulations that have greater prosecutorial intent. With the dynamic nature of these kinds of crimes, it is important that there is some flexibility offered to law enforcement officers and prosecutors to allow them to keep ahead of these criminals.

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