Cooley

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To what extent must a bank make inquiries as to the commercial purpose of a transaction, particularly a transaction involving an offshore structure? And when is a bank liable to compensate a victim of theft for receiving funds deriving from stolen assets and using them for its own benefit?

These were the questions addressed in *Credit Agricole v Papadimitriou* by the UK's Privy Council (the court of final appeal for the UK's overseas territories and Crown dependencies, and for Commonwealth countries that have retained it as the ultimate appeal Court; its decisions are authoritative in English law as it comprises judges from the UK Supreme Court).

The Privy Council upheld a decision that the Claimant was entitled to recover US$9.8 million from Credit Agricole (the "Bank"), which the Bank had received and used to repay a loan made to the fraudster. It did so despite the absence of any dishonesty by the Bank.

The impact of the judgment may reverberate around the risk departments of financial institutions (or, indeed, other regulated entities). It is relevant where stolen funds, or funds deriving from stolen assets, have been used, for example, (a) to discharge a loan or overdraft, (b) to pay substantial fees for a transaction or (c) where the bank has enforced security taken over a stolen asset.

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