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Nigerian Advance Fee Fraud

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Throughout history, enterprising if unscrupulous individuals have devised new ways of tricking gullible people into parting with their money. Without in any way impugning the integrity and honesty of the vast majority of Nigerians, this paper examines one of the most recent examples of deceptive conduct that has emerged internationally and has been carried out on a wide scale by a group of primarily Nigerian nationals. It involves a variant of the traditional "advance fee" scheme and has been used to defraud anyone in the world who is willing to succumb to the temptation offered to make some "quick money". It has been estimated that some US$5 billion has been stolen worldwide through the use of these schemes over the past decade.

This paper examines the nature of this phenomenon and investigates the way in which its occurrence has escalated, not only in frequency, but also with respect to the seriousness and nature of the criminality involved. It also examines the reasons behind the development of this phenomenon and how traditional law enforcement measures have been of limited effectiveness in controlling it. In the end, one can only wonder at the greed and stupidity of people prepared to part with money in response to an unsolicited letter, offering them millions of dollars, from a stranger on the other side of the world.

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The gist of so-called "advance fee frauds" is to trick prospective victims into parting with funds by persuading them that they will receive a substantial benefit in return for providing some modest payment in advance. The ruse has been used since earliest times. In Sydney in the 1840s, for example, the aptly-named and wealthy Mr Monies provided funds to one Mick Bell, described as "one of the most cool, impudent vagabonds in Sydney", to finance the smuggling of a mythical £20,000 worth of goods out of the colony on a phantom ship in Port Hacking. Mr Monies gave Bell money and clothes on account and then, realising that the scheme was fraudulent, reported the matter to the police. Bell was convicted and sentenced to two months' imprisonment (Hall 1993).

The characteristics of this type of fraudulent scheme usually entail enlisting the services of the prospective victim to assist in an activity of questionable legality, thus providing some assurance that the victim would be unlikely to report the matter to the police, once defrauded. The victim would, rightly, be apprehensive that he or she had aided and abetted some criminal activity and would also be reluctant to make public the fact of his or her gullibility, particularly if adverse media coverage was a possibility. Thus, the offender is able to carry out the scheme repeatedly, sometimes in respect of the same victim, whilst police are faced with difficulties in finding witnesses and securing evidence.

In recent times, one particularly endemic form of advance fee fraud has involved a group of expatriate Nigerians who are believed...
to operate from cells in the United States, Britain, Canada, Hong Kong, Japan and other African countries with the assistance of confederates within West Africa (Gup 1995, pp. 120–5). The term “Nigerian Advance Fee Fraud” is, therefore, only partially accurate and the problem is truly one of international dimensions, with victims and offenders being located across the globe. Australians have also been targeted in view of their affluence and supposed willingness to “bend the rules” in order to derive a benefit.

Part of the reason for the success of the deceit lies in the social and political circumstances which have existed in Nigeria and provided fraudsters with a plausible context in which to conceal their true activities when approaching prospective victims.

The Social and Political Background of Nigeria

Nigeria is a federation of 30 states governed by a newly elected civilian President. It is the most populous of the African countries, with approximately 125 million people, and covers some 925,000 square kilometres, making it slightly larger than New South Wales. Lagos is the economic centre of the country and was its capital city until 1991, when a new capital was created at Abuja in the centre of the country.

Nigeria became a British colony in 1861 following the abolition of the slave trade in 1833. In 1900, the British Government took over direct administration from the Royal Niger Company Chartered and Limited and retained its existing legal system. In October 1960, Nigeria became an independent country and has been ruled since then by a series of military dictatorships interspersed with short periods of democracy. In 1993, General Sani Abacha became Head of State after democratic elections were declared invalid, allegedly following massive electoral fraud.

The person who claimed to be the democratically elected President, Moshood Abiola, a multi-millionaire businessman, was arrested for treason and imprisoned in 1994. He died of a heart attack in prison in July 1998, following the death of General Abacha, also of a heart attack, on 8 June 1998.

On 27 February 1999, Nigeria held its first democratic elections in 15 years and a civilian, Olusegun Obasanjo, who had formerly been a general and Head of State in Nigeria, became President-elect, and took office on 30 May 1999. In 1983, he had relinquished power after having engineered democratic elections and the handover to civilian government. Now, as head of the People’s Democratic Party, he hopes to end much of the corruption of the previous military regimes that have held power for 29 of the 38 years since independence (Robinson 1999).

During General Sani Abacha’s regime, billions of dollars were taken from the national treasury. The family of General Abacha have recently handed back $750 million worth of currencies taken from state funds and these have since been deposited in the Central Bank of Nigeria (Times 1998).

An indication of the extent to which Nigeria is perceived as being corrupt is given in the Corruption Perception Index published by Transparency International on 22 September 1998. This Index for Nigeria is 1.9 on a scale of 1 to 10 in which 1 represents the highest level of perceived corruption. By way of comparison, Australia has an Index of 8.7 (Transparency International 1998).

Nigeria has vast deposits of oil, natural gas, coal and iron ore and its main source of export income is petroleum products. At present, crude oil sales account for more than 90 per cent of export earnings and around 75 per cent of government revenue (Robinson 1999). When world oil prices declined in the mid-1980s, the wealth of the country suffered considerably. This, coupled with the activities of an increasingly corrupt elite, led to a general decline in standards of living. In order to raise funds, some Nigerians began devising various fraudulent schemes, often with the assistance of expatriate nationals in the United States and other developed countries. The political and social upheaval which had taken place created a scenario in which unsuspecting individuals could be persuaded that funds located in Nigeria needed to be moved to Western countries in order to prevent them from being either confiscated or devalued.

The Nature and Extent of the Problem

The frauds that have been discovered to date have taken a variety of forms. All have entailed victims being approached by letter or, recently, electronic mail, without prior contact. Victims’ addresses are obtained from telephone and email directories, business journals, magazines or newspapers. Letters are invariably handwritten, and often with counterfeit postage stamps attached, resulting in their seizure by postal authorities. They generally describe the need to move funds out of Nigeria and seek the assistance of expatriate nationals in the United States and other developed countries. The victim is offered a commission, which could be up to 40 per cent of the capital involved. Capital sums of US$20-40 million are often mentioned, thus creating a potential reward for the victim of up to US$16 million. An advance payment that could total up to US$50,000 is usually required, which represents the amount stolen.

The mechanics of the schemes extend from the barely plausible to the unlikely, but all have met with varying degrees of success.

One scheme involves victims being informed of the existence of
case loads of banknotes which are said to have been coated with a black mixture of Vaseline and iodine in order to disguise their identity from the authorities. The alleged money is shown to the victim, who is told that the black coating can be removed by washing it with a special compound. In fact, only a few real, blackened US$100 bank notes are shown to the victim, and the special chemical is ordinary cleaning fluid. The remainder of the material in the case is blank, blackened paper. The victim is asked to provide between US$50,000 and US$100,000 for bulk supplies of the cleaning compound, which the offender offers to provide. After the advance payment has been received, the chemicals are not delivered to the victim, who is left with suitcases full of worthless black paper instead of the US$100 notes. One Japanese businessman is said to have lost US$5 million in this way (United States Secret Service 1997).

Letters have also been sent to victims indicating that millions of dollars have been left to them in deceased estates and inviting them to claim the money. Such letters are often accompanied by fraudulent wills of deceased foreigners and are sent to their relatives from bogus firms of solicitors. Victims are required to pay certain fees in advance of receiving their bequests which, of course, do not exist.

Another scheme involves victims being given apparently legitimate documents emanating from sources such as the Nigerian Government, the Nigerian National Petroleum Company, the Central Bank of Nigeria or Nigerian solicitors indicating that sums of money need to be moved out of Nigeria in order to prevent confiscation. Victims are asked to provide bank account details as a ruse to support the legitimacy of the transaction. Over time, the victims are then asked to provide sums of money in order to facilitate the transaction, such as for government taxes, processing fees, audit fees, insurance or bribes for officials. Occasionally, victims will continue to provide money for years in the expectation of receiving a windfall that never arrives.

Some schemes entail victims receiving correspondence that purports to represent some contractual arrangement with Nigerian government officials or businessmen, usually offering substantial gains for little investment. The transactions may involve the recovery of contractual funds, crude oil shipments or over-invoiced payments, all of which are non-existent. In order to facilitate arrangements, victims are asked to supply bank account details and later money to pay legal fees, taxes, bank transfer fees or bribes.

The United States Secret Service estimates that, since 1989, US$5 billion has been stolen from victims throughout the world, including Australia. Between August and November 1998, Australia Post (in Sydney alone) confiscated 4.5 tonnes of advance fee correspondence which had counterfeit postage, amounting to approximately 1.8 million items (Holmes & Kaufmann 1998).

The Australian Federal Police coordinate investigations into advance fee fraud, although few prosecutions have taken place. Over a two-year period, some 250,000 advance fee letters were collected by the Australian Federal Police. Early in July 1998, Australian Customs intercepted a courier package sent from Nigeria containing 302 advance fee letters which were to be posted in Australia to destinations in New Zealand, the Pacific Islands and the South-East Asian region. In March 1998, Hong Kong police arrested 54 persons and seized 13,350 advance fee letters.

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**Escalation of the Problem**

Over time, simple advance fee frauds have become increasingly more complex and on a number of occasions events have escalated into acts of physical violence and extortion. This occurs when victims are persuaded to travel to Nigeria to undertake further steps to complete the transaction in question, or where victims who have been defrauded have travelled to Nigeria to confront offenders in an attempt to have their money returned. Sometimes victims have been given forged visas, making their stay in the country illegal and leaving them open to further acts of extortion (Gup 1995, pp. 123-4). Victims found in possession of advance fee documents in Nigeria may also be in breach of local laws.

Often, victims who refuse to continue to pay advance fees have been subjected to acts of intimidation and threats of violence unless they cooperate. One threatening letter, faxed to a victim in November 1994, purported to come from a subsidiary of “International Assassinators and World Security Organisations” and stated:

> We have received a Fax message our World Headquarters New York this morning to inform you to produce a mandatory sum of US$5,000,000.00 only, into our account given below in Switzerland within ninety six hours, alternatively you will be kidnapped and forced to commit suicide during the period of our on-coming anniversary of fifty years [sic]

(sighted 8 April 1999 at: http://home.rika.net/alphae/419coal/Extortionsamples.htm)

Most recently, victims have been threatened with violence unless they cooperate from the start. If they have travelled to Nigeria they have been held hostage until a ransom is paid. Since 1992, 17 people have been killed in Nigeria attempting to recover their funds and the US State Department has documented over 100 cases in which American citizens have been rescued from Nigeria. One United States investor who went to Nigeria to recover his money was found dead on the steps of a hotel after having been set on fire (Canberra Times 1995).

There is also evidence of repeat victimisation. Some victims who have been defrauded receive correspondence months
later, ostensibly from the Nigerian authorities advising that their funds have been recovered. Again, they are requested to send funds to enable the so-called recovered funds to be released, thus resulting in further loss.

Those involved in perpetrating these acts appear also to be involved in other criminal activities such as credit card fraud, false identity fraud, forgery and immigration fraud involving counterfeit passports and visas. The criminals involved also seem to have connections with other organised crime groups including international drug traffickers (Gup 1995, pp. 120–5).

Funds illegally obtained in advance fee schemes have also been used in money laundering operations carried out in conjunction with drug trafficking operations. In one case undertaken by the United States Secret Service in 1997, a Nigerian national residing in New Jersey was convicted of receiving the proceeds of advance fee fraud and laundering the funds through the purchase of luxury automobiles which were to be exported to one of the largest automobile distributors in Lagos (sighted 8 April 1999 at: http://www.ncjrs.org/htm/ss.htm).

Another way in which the problem has escalated very recently involves victims carrying out fraudulent activities themselves in order to obtain further funds to be sent to Nigeria. One Sydney victim of an advance fee fraud allegedly defrauded Australian investors of $700,000 himself in order to transfer money to Nigeria in the hope of recovering funds which he had already lost. He made use of the same kind of advance fee schemes that had previously been used to defraud him. On 18 March 1999, he pleaded guilty to ten counts of obtaining a benefit by deception at Penrith Local Court (Power 1999). Another case concerned an Adelaide businessman who defrauded local Australian investors of more than $2.3 million in order to send funds to Nigeria. On 25 March 1999, at Adelaide Magistrates’ Court, he pleaded guilty to eight counts of false pretences and was sentenced to six years’ imprisonment with a non-parole period of two years (Owen-Brown 1999).

**Regulatory and Preventive Action**

As with other forms of transnational organised crime, advance fee fraud is difficult both to detect and to prosecute. Offenders have used various strategies to thwart official investigations and victims are often reluctant to cooperate with police because they believe that they are implicated in a criminal conspiracy and could be prosecuted, either in their own country or in Nigeria. Victims are also reluctant to cooperate with police through fear of reprisals being directed against them by the organised criminals involved.

Difficult legal jurisdictional questions also arise in determining where the offence has been committed and in which country a prosecution should be taken. Many offenders are located in the United States, although some advance fee letters emanate from Nigeria. On occasions, letters have been delivered to other countries for posting from these locations. With letters now being sent electronically, the possibility also arises that messages may be sent through anonymous re-mailing services.

Where Australians have been victimised through advance fee frauds perpetrated by offenders located overseas, it may still be possible to mount a prosecution in Australian courts. Each State and Territory has different cross-border legislation that supplements or reproduces the common law position (see Lanham 1997, pp. 111–19). In Victoria, for example, section 80A of the Crimes Act 1958 would enable a Nigerian fraudster living in the United States to be prosecuted within Victoria where a Victorian person was deceived into paying money into an overseas bank account.

Various evidentiary problems, however, arise—such as the loss of original documents, which are often retrieved from victims by the offenders in order to defeat attempts at prosecution. Difficulties have also been experienced in arranging extradition, even if offenders can be physically located.

In Australia, a package of legislative measures was adopted in the late 1980s to facilitate the prosecution of organised crime and serious fraud. These included the Mutual Assistance in Criminal Matters Act 1987 (Cwlth), which established mechanisms to facilitate international cooperation between investigators with respect to obtaining evidence, the location of witnesses and suspects, the execution of search and seizure warrants, the service of documents, the forfeiture of property and recovery of fines and various other matters. The Proceeds of Crime Act 1987 (Cwlth) also enables investigators to follow the trail of the illegal proceeds of crime internationally and to confiscate assets, whilst the Extradition Act 1988 (Cwlth) extended Australia’s ability to enter into extradition arrangements internationally. The International Branch of the Commonwealth Attorney-General’s Department administers these pieces of legislation, all of which have helped considerably in prosecuting offenders located overseas.

Although many of the legal and procedural impediments to the successful prosecution of international serious fraud have been removed, a number of practical difficulties remain. The most problematic relate to cost and delay in cases of extraterritorial law enforcement and these make some prosecutions practically impossible.

The Nigerian Government itself has taken a range of steps to combat advance fee fraud. Various laws proscribe the conduct involved in advance fee schemes, including those relating to obtaining property by deception, theft and forgery. Section 419 of the Nigerian Criminal Code (Cap.
be heard by Special Military Tribunals whose decisions are not subject to judicial review by the High Court of Nigeria. Instead, the decisions of Special Military Tribunals are appealable before a Special Appeal Tribunal (Osimiri 1997). The use of Special Military Tribunals to deal with current problems is not, however, unusual in Nigeria (see Vukor-Quarshie 1997).

Although these reforms may seem necessary to deal with an intractable problem, they detract from principles of fairness and justice which ought to govern all criminal proceedings and which are enshrined in Chapter V of the Nigerian Constitution (1992) (see Owoade 1995).

The Nigerian Government has also embarked upon a range of preventive measures, including education of the local and international community as to the risks involved in replying to advance fee letters. In addition, the government has withdrawn international dialling capabilities from the public and closed down telephone business centres that were used to transmit fraudulent calls and facsimiles. Finally, the Central Bank of Nigeria in Abuja has launched a publicity campaign designed to alert the community to the problem of advance fee fraud (http://www.expdisc.com/cbn.htm).

Many countries whose citizens have been victimised have also taken action. In May 1995, three offenders were convicted in Southwark Crown Court in London of conspiracy to defraud ten victims, including two Australians, of more than £750,000. Two male offenders were sentenced to five years’ imprisonment and ordered to pay £125,000 compensation each. The third offender, a woman, was sentenced to 18 months’ imprisonment (Canberra Times 1995). The Serious Fraud Office’s West African Fraud Desk has continued to take action and in 1997 prosecuted 111 individuals in the United Kingdom. The British postal service is also acquiring new powers to intercept and destroy advance fee letters.

In the United States, the Secret Service has primary responsibility for dealing with advance fee fraud. A number of arrests have been made and in 1997 it undertook an international publicity campaign, which included Australia, to alert potential victims to the problem. Approximately 100 telephone calls are received each day from potential victims, along with up to 500 pieces of correspondence. In April 1998, the Secret Service was able to arrest 50 persons in a joint operation with Nigerian authorities.

On 21 May 1998, the Nigerian Advance Fee Fraud Prevention Bill was introduced into the United States Senate to highlight the problem, to inform the public of the risks and to enable government action to be taken to prevent advance fee fraud (sighted 8 April 1999 at: http://www.house.gov/markey/nigpr.htm). The Office of International Criminal Justice within the United States Bureau for International Narcotics and Law Enforcement Affairs has also established an Inter-Agency Working Group on Nigerian Crime which coordinates activities by law enforcement, diplomatic and business organisations.

In addition, two American organisations have established Internet sites with information and advice for victims of advance fee fraud. International Investigation Services (IIS) operates a paid service in which actual advance fee letters and other documents are available for inspection. In addition, IIS maintains a list of known Nigerian advance fee offenders which is over 156 pages long, along with bank account details which have been used and advice on how to recognise a fraudulent proposal (sighted 15 April 1999 at: http://www.supperhighway.is/iis/access.html). The other organisation, the 419 Coalition, maintains a site with extensive information on advance fee frauds that is updated regularly and has links to other fraud prevention agencies (sighted 15 April 1999 at: http://home.rica.net/alphae/419coal/).
Conclusions

Throughout the world considerable publicity has been given to the problem of advance fee fraud. Nonetheless, offences of this nature continue to take place, fuelled by vulnerable and gullible victims and increasingly unpunished and violent organised criminals.

What began as a relatively simple adaptation of a traditional advance fee ploy has developed into an extensive organised criminal operation with links to other major crime internationally.

Problems associated with gathering evidence and prosecuting offenders in other jurisdictions have meant that relatively few convictions have been obtained. Nonetheless, police services and governments across the globe have embarked upon an effective process of collaboration and sharing of information.

The nature of organised crime is such, however, that displacement invariably occurs where law enforcement proceedings are taken. In the present case this is beginning to take place, with offenders moving away from Nigeria to nearby countries such as the Benin Republic, Burkina-Faso, Sierra Leone, Ghana, Cameroon and even South Africa, where the schemes are less widely known. One advance fee email message recently received in Australia came from a citizen of Zaire who was in Benin and who claimed to be in possession of two suitcases containing US$10 million which he took with him when President Mobutu fell (Sydney Morning Herald 1998). Another was received from people who claimed to be agents of UNITA (the Angolan rebel movement) and to have misappropriated UNITA funds allocated to buy arms, instead purchasing diamonds and precious stones which were being held in South Africa. The use of electronic messaging to disseminate advance fee letters represents a particular problem, as this ena-

bles offenders to disguise their identity and to canvass considerably larger numbers of potential victims more easily. The use of telecommunications also creates additional legal problems in identifying where the illegal conduct took place and where the victimisation occurred.

Hopefully, the changed political situation in Nigeria may reduce some of the impetus for fraud and corruption within the country, whilst the draconian laws enacted may have some deterrent effect. Unfortunately, the problem is no longer one for Nigeria alone to deal with as it has taken on a truly international character. As with most schemes directed at unsuspecting consumers, effective education as to the risks involved represents a more appropriate response than embarking upon trans-jurisdictional criminal proceedings.

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