

JOSÉ FERNANDES LLB FCA MAE



PROFESSIONAL QUALIFICATIONS

LLB (Hons) Bachelor of Law 2:1
Fellow of the ICAEW
Accredited Forensic Accountant by the ICAEW
Member of The Academy of Experts

PROFESSIONAL CAREER

Having graduated in Law, José joined the London office of Lee & Allen Consulting in 2001 and qualified as a Chartered Accountant in 2004. Between 2001 and 2007, José was employed as a forensic accountant at Lee & Allen Consulting, working on a wide range of commercial litigation and investigation cases. In 2007, José built upon his investigatory experience when José joined the Fraud Services Unit of BDO Stoy Hayward LLP, London.

José joined Ballamy Woodhouse in early 2009 which became Ballamy LLP in April 2013. In April 2015, José was promoted to the role of Junior Partner where José built up significant experience in leading cases and drafting expert witness reports. José successfully took a proactive role in respect of business development and co-ordinated the personal development of staff internally. In May 2018 José set up CF Forensics to offer a client focussed solution to the forensic accounting and financial investigation requirements of his clients.

PROFESSIONAL EXPERIENCE

COMMERCIAL DISPUTES

José has recently been instructed in the role of expert to prepare a quantification of the losses suffered as a result of the actions of the Impaired Assets Division of HBOS plc. In February 2017 six individuals were convicted and sentenced to a total of 47 years in prison for a substantial fraud. The perpetrators of the fraud used small businesses as a conduit for stealing hundreds of millions of pounds from the bank simultaneously causing substantial damage to those small businesses. As a result of the fraud José's client's business went

into administration in late 2004 and it is his client's case that, but for the historic actions of HBOS, the business would have continued to date. As such the quantification of loss will revolve around the loss in value of the business as a result of the Bank's actions. His client is currently within the redress scheme and has received a settlement offer that has been rejected and José's report will assist in deciding whether to pursue litigation against the bank.

José was appointed as an expert to assist a client pursuing a claim for professional negligence against a firm of accountants that she had engaged. An employee from the firm was identified as having misappropriated monies from various high profile clients of the firm of accountants and José was engaged to independently ascertain the extent to which his client, a well-known musician, had suffered a loss herself. He identified that monies misappropriated from other clients had been laundered through his client's account in order to conceal the misappropriation. He also established that his client's monies had been used to settle the tax liabilities of other clients of the firm. His expert report quantified the loss suffered by his client (in excess of £400,000) and his findings were used as a basis for the police's criminal investigation.

José was instructed to act as an expert for his client who was disputing service charge liabilities allegedly owed to the landlord. As a result of recurrent problems with the facilities within the leased premises, his client, an event management company, claimed loss of profits on the basis that numerous events and site visits were negatively impacted by the problematic facilities causing his client a financial loss.

José has been instructed as expert in a dispute between his client and the client's fellow directors and shareholders of a company that owned and managed a business centre. José's client had concerns about the level of services, if any, rendered to the company under consultancy agreements (totalling c.£180,000). Additionally José was asked to review the accounting books and records to ascertain the extent to which legal and professional fees (totalling c.£500,000) that should rightly have been borne by his directors personally were actually incurred by the company itself.

José has also been engaged as an expert on a number of matrimonial disputes. Most typically these disputes involve performing a critical assessment of the accuracy of representations made by the parties as at the time of the financial settlement to assess the extent of non-disclosure of assets and opining on the valuation of assets and shareholdings.

José provided assistance to a client in a high-profile commercial dispute between property developers where the work involved assessing the market values as at three valuation dates of the client's beneficial interest in the shares of an overseas entity.

José was engaged as an expert witness in respect of a claim for consequential losses arising from the mis-sale of an interest rate hedging product by a large bank. His report detailed the quantification of the alleged consequential loss arising from the claimant being forced to sell properties in order to liquidate funds to meet the increasing liabilities due under the mis-sold swap.

José was instructed to prepare an expert report on behalf of a property developer for prime real estate. The property developer took out a series of loans with the bank which were renewed for several years before the bank demanded two loans to be repaid. In response to bankruptcy proceedings issued against the property developer, José was engaged to examine whether the amount demanded by the bank was in accordance

with the facility agreements governing the loans and to identify any anomalies or inconsistencies in the terms of the facility agreements, in particular with respect to the level of the bank charges.

José was engaged to prepare a witness statement in respect of a partnership dispute in the Chancery Division of the High Court of Justice. His work involved the review of a number of witness statements as well as explaining the difference between partnership capital, a partner's capital, a partner's capital account and a partner's current account. His witness statement clarified that the annual tax returns of the partnership would be sufficient in order to ascertain the individual partners' respective profit shares such that there was no need to disclose neither the tax returns of the individual partners nor their banking records.

José assisted other members of the firm in an international arbitration under the LCIA rules revolving around potential breaches of warranty under a sale and purchase agreement. Acting for the Respondent, they examined the accuracy of the claim for over €7m, drafted submissions to the Arbitral Tribunal on behalf of the Respondent and advised the client on the proper interpretation of contentious accounting matters, in particular, the valuation of stock and inventory.

José assisted a client in respect of a dispute arising from the distribution of sales proceeds of two pieces of artwork. An agreement had been entered into such that artwork owned by the client would be sold by an art dealership and the proceeds of such sales would be split between the parties providing that the paintings were sold for no less than €6m within a specified time period. However, following the sale of the first painting for €5m, the proceeds from that sale were not remitted to the client until 12 months later and the scope of work, performed for the purposes of mediation, was to assess the extent to which the art dealership had made profits as a result of its retention of monies that should rightly have been transferred to the client upon the successful sale of the paintings.

José assisted in the preparation of an expert report and a joint statement relating to a dispute between business partners arising from the development costs incurred in the setting up of a salon. José's work on this case involved identifying and quantifying the costs incurred in the building and development of the salon and determining the financial position and performance of the salon at a number of relevant dates.

José has previously assisted an international software manufacturing company in respect of a claim for breach of contract and loss of profits arising from the contract. His work involved a calculation of the quantum of damages with a substantial amount of the work completed on six-month secondment in Hong Kong.

José has assisted a major listed aerospace manufacturing company claiming damages from a customer for termination of a supply contract and associated counter claim.

INVESTIGATIONS

Civil

José has recently been assisting a client who simultaneously received the first Unexplained Wealth Order issued by the National Crime Agency and an interim freezing order. The Unexplained Wealth Order requires the client to provide a substantial amount of information in order to explain the source of funds used to acquire the property. In the event that the responses provided are considered to be unsatisfactory, there will be a presumption that the asset constitutes "recoverable property" for the purposes of a Civil Recovery Order

under Part 5 of the Proceeds of Crime Act. José has been liaising with the instructing solicitors, Counsel and the client to assist in preparing a response to the Unexplained Wealth Order.

José assisted a major law firm with a large-scale review to ascertain the nature and amount of assets owned by a wealthy client who was the subject of a worldwide freezing order. This work involved obtaining the bank statements for in excess of 200 bank accounts covering a period of three years and assessing the extent to which the balances had substantially changed. Where substantial changes were identified between the balances, José traced payments and receipts from accounts in order to gain a more detailed understanding of the reasons behind any difference. This work also involved considering the extent to which assets owned by the client and/or his family had been dissipated in the three-year period.

José assisted a manufacturing company in an investigation into suspicions that their Finance Director had misappropriated sums in excess of £3m from the company over a number of years. This exercise initially involved tracing a large number of payments from the company's bank accounts to an account in the name of the Finance Director. The second part of this exercise focussed on understanding how the Finance Director had been able to conceal these transfers within the company's accounting books and records and involved a detailed review of the bank statements, ledgers and accounting records of the company.

José assisted a large international medical technology group with an in-house investigation following a whistle-blowing complaint by one of their leading suppliers. The complaint revolved around an employee that was accused of siphoning off funds to a connected party to the detriment of both the supplier and his employer. José performed a critical review of the contracts that the employee had been involved in over the relevant period, identified areas where the employee's behaviour did not meet the employer's expectations and provided the employer with a list of recommendations to improve the control environment.

José assisted a semi-conductor business with an internal investigation into alleged frauds, including the manipulation of restructuring costs and the processing of fraudulent sales in order to meet profit targets.

José provided technical expertise for a global broking house with an investigation into alleged instances of misstatement resulting in large trading losses. Work involved preparing detailed profit and loss schedules of daily trade positions from limited documentation.

José assisted a food processing company in an investigation into an employee who had manipulated company ledgers and diverted company funds into his personal accounts.

Criminal

José provided assistance to the FCA in a lengthy investigation into an individual who had allegedly been making false representations to investors and promoting a collective investment scheme. A large number of investors had transferred in excess of £5.5m to the individual on the basis of misleading information that those funds would be traded successfully on foreign exchange markets. José's work included the preparation of a detailed trading analysis, a critical analysis of how the £5.5m had been spent and the preparation of illustrative schedules and graphs to be presented before the jury. The individual pleaded guilty to the operation of a collective investment scheme without authorisation and was convicted of fraud by a jury and he was sentenced to a total of 7 years' imprisonment for defrauding investors.

José assisted a client who had been convicted in his home country of corruption and embezzling public money (in excess of US\$390m) such that the country had sought his extradition from the United Kingdom. The work involved performing a critical assessment of the allegations against the client, identifying the source and destination of various monies and opining on the rationale of a number of cash flows.

José provided assistance to a client facing trial for allegations of bribery and corruption. It was the Crown's case that the client had conspired with others to pay bribes on behalf of his employer in excess of €5.3 million in order to secure contracts for two substantial industrial engineering projects. The work involved a critical analysis of all monies paid into and out of his bank accounts, seeking rationale for transactions as necessary. Particular focus was paid to amounts received from his employer in order to consider the extent to which his remuneration (in terms of salary, bonuses etc) was in line with his agreed remuneration package and that the rationale for pay rises or promotions could clearly be demonstrated. The report demonstrated that there was no evidence to suggest that he personally benefitted from the award of the two contracts.

José provided assistance to the Special Investigation and Prosecution Team, on behalf of the Government of the Turks & Caicos Islands and conducted an investigation into the affairs of two companies registered in the TCI amidst allegations that they were operating a pyramid scheme. His work centred on preparing a detailed tracing analysis of the monies paid to and received by the two companies and their related parties with a view to establishing flows to and from investors, investments with connected and unconnected companies and any profits and/or losses arising from those investments.

José performed a large amount of work on behalf of the directors of a large scrap metal trader in criminal proceedings in respect of allegations of dealing with stolen material. This work involved preparing a detailed analysis of the extent and nature of trading between the scrap metal trader and the eleven companies that were the subject of the indictment.

José has also provided assistance on a number of cases where individuals have been charged with fraud by false representation as a result of allegedly submitting false and fraudulent VAT returns. Similarly, he has assisted with cases where individuals have been charged with paying insufficient income tax.

Regulatory

José managed the forensic accounting work stream of an FSA Enforcement Division investigation into an alleged insider dealing ring operating in London. He investigated instances of suspicious trading activity and money laundering and also traced the trading profits through numerous bank accounts in various jurisdictions. Further detailed work included a critical analysis of the trading activity and the movement of monies resulting from the trades placed, with specific attention paid to taped telephone discussions between the pertinent parties about their activity and publicly available information. José prepared a number of reports for internal and external review, assisted in the interviewing of pertinent parties and liaised with City of London Police and HM Customs & Excise.

José was appointed by an overseas financial services regulator to oversee management's stewardship of a trust company. This arrangement involved monitoring management's conduct in real-time and deciding whether or not to allow the implementation of decisions made by the trust company's management team. This role effectively meant that any payment over £5,000 that was due to be paid by the trust company on behalf of its clients had to be reviewed by ourselves to ensure that we had no objection to the payment being

made. This involved a critical review of the rationale for both the trust structure and the transaction itself and a comprehensive review of the due diligence held by the trust company including documentation on source of wealth and source of funds. The work culminated in senior members of the company leaving and a detailed remediation plan was agreed with the regulator.

José provided assistance to a regulatory body in a statutory investigation arising from a whistle-blower's allegations of the alleged mismanagement of financial resources of a registered provider of social housing. His work included managing the forensic analysis of £14m expenditure of public money and undertaking a considered assessment of a number of allegations made by whistle-blowers. A detailed review of the emails of senior -mails and other electronic documentation provided further useful information, supplementing the information proffered by interviews of the key individuals. Work culminated in the drafting of a report summarising the findings and this report was submitted to the regulatory body to assess what action should be taken.

José has provided assistance to the Department for Business, Innovation and Skills, and conducted a detailed examination of a company's accounting policies, disclosures and associated supporting documentation to assess the extent to which liabilities and provisions had been understated and inappropriately disclosed in the company's statutory financial statements.

CONTACT DETAILS

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