

Not a Do-It-Yourself Project

Upon hearing that TPR has located assets in their names, some clients ask, "Well, all right, but why do I need your help in recovering them? Can't I just fill out a form or two on my own?"

The answer: Maybe. Some cases are straight-forward, but many others are far from it. One of TPR's recent victories has been a hard-won battle spanning seven years and two continents.

One of TPR's English researchers set out to find the owner of some unclaimed shares and dividends amounting to GBP 62,000. Although the account was in Britain, the shares were registered to Mr. N, a citizen of Sierra Leone.



Starting with only a name and a country in 2003, our researcher managed to contact one of Mr. N's distant relatives, who offered what he believed to be Mr. N's last known address. Correspondence sent to this address went unanswered, but, as the researcher noted, the country had been in the throes of civil war. Notices that he posted on genealogical web sites and other queries brought him into contact with many people sharing Mr. N's surname, but no immediate kin. More dogged sleuthing uncovered the fact that Mr. N had been a member of the Masonic Lodge in Sierra Leone; the Secretary of the Lodge reported that Mr. N had died in 2000. The researcher persevered, contacting a nephew, and finally, the two executors of Mr. N's estate in 2008.

After five years of detective work, two more years of paperwork ensued. International cases can be legal quagmires. Which country has jurisdiction? Will one country recognise documents issued by another? What are the tax implications in each? Are necessary documents (such as shareholding certificates) even available?

In the case of Mr. N, his executors signed an agreement with TPR to recover the asset in the UK. TPR then obtained an Affidavit of Foreign Law, required in all international cases to assure the British authorities that the correct party is making the claim. The case notes include a mind-boggling list of documents travelling between London and Freetown. In January 2010, the British court issued the grant of probate. When the UK inheritance tax requirements have been researched and met, Mr. N's estate will be able to take possession of the dividends. Without the original share-holding certificate, however, the issuing company will not release the shares. TPR will pursue yet another paper trail to this end.

Greetings,

In our latest edition of the TPR Network Newsletter, we'll take you around the world in search of people and properties. Learn how the United Kingdom's Dormant Accounts legislation affects your chances of recovering misplaced assets. Follow one of our determined researchers as he follows a convoluted trail to a missing shareholder in Sierra Leone. And finally, meet our globe-trotting company founder, Richard Davies.

As ever, please feel free to offer comments or suggestions for future topics. I am always pleased to hear from you!

With kind regards,

Amanda

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The Dormant Accounts Primer: A Brief Introduction to Losing Track of Your Assets Here and There



Most countries have laws concerning unclaimed properties. These laws define the period of dormancy, and what happens to the funds after that. In many countries, including Australia, Malaysia and the USA, moneys that remain unclaimed at the end of the dormancy period pass to the government – partly for safe-keeping, and partly so that funds which remained unclaimed indefinitely can be used for the public good. Should someone appear and be able to prove his rightful ownership of the asset, he can most likely reclaim it, regardless of the elapsed time. In practice, however, even when governments make concerted efforts to trace rightful owners, the vast majority of "lost" money remains just that – lost. The owners never come forward to make a claim, and the government can put those funds to work for the benefit of the wider public.

Laws and practices differ from one country to another. In Malaysia, one can search the gazette in printed form. In Australia, each state/territory has its own policies, but the records are all public. The US is very vigorous in its efforts to restore assets to their owners; each state's Treasury Department publicises its own unclaimed assets on the internet, in the press, and even televised call-in programmes, listing assets ranging from forgotten bank accounts to un-cashed tax refund checks.

In the UK, however, it's a somewhat different story. Ireland passed a Dormant Accounts Act in 2001, covering unclaimed moneys held for more than 15 years by banks and credit unions. The UK's Dormant Accounts Act is based upon the Irish one, but Prime Minister Gordon Brown declared that the government would use the pool of unclaimed assets for charitable causes. While this earned points in the public relations category, TPR has always argued that the Act contains a few significant weaknesses.

According to a BBC News article: "There is an estimated £15 billion held in dormant accounts." The British government does not take possession of the money in the dormant accounts. Rather, it allows interested parties to set up specialist commercial companies called Reclaim Funds to do the job. These companies – which can quite legitimately be established by the banks that were previously holding the dormant accounts – are entitled to charge their expenses against the money that they're holding and managing. Part of the funds are then passed to the Big Lottery Fund for distribution to good causes, which is fine, but given the financial industry's recent history of overpaying itself, wouldn't it be more prudent and transparent to have the Reclaim Funds under direct Treasury Control, or at least require them to make a total disclosure of fees charged and salaries paid?

When it comes to advertising unclaimed assets, other countries are clear: They make the lists of unclaimed moneys publicly available with, of course, appropriate safeguards to preserve personal privacy and to protect against fraudulent claims. There's no such openness in the present UK system. A claimant must first remember that he has lost some money, and then remember sufficient details to know which Reclaim Fund to approach. Should he manage to locate his missing assets, he must find a way to identify the money he may be entitled to.

The effectiveness of the Act is being kept under review by the Treasury, and they invite people's comments. Looking at similar schemes operating successfully in other countries, it is clear that the UK system could be greatly improved with just a few simple changes. TPR will continue to press for openness and more transparency in the Unclaimed Moneys system in the UK.

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Richard Davies: Founder of TPR Network

TPR Network is only one of Richard Davies' brainstormers. Richard cheekily characterises at least a portion of his work-day as "sitting in Starbucks and coming up with ideas". Far from being an idle dreamer, though, Richard pursues his fancies until they work, or they don't. TPR has been both working and expanding steadily since 1995.

Born in London, Richard attended university when in his 40s, reading law and communications. The law lectures sparked his interest in what happens to unclaimed property, as well as the intricacies of land and land titles. This curiosity, particularly in cases that cross national boundaries, has led to property searches that circle the globe.

In 1998, Richard mentioned his work to a friend, a Malaysian law student in London. When he went home for a visit, the friend related the conversation to his family, and his mother informed him that Malaysia has an Unclaimed Moneys Act. Et voila! TPR expanded to include a branch office in Kuala Lumpur. "I tend to divide the world into those countries which have unclaimed moneys acts and those which don't", Richard says. He has also been working to develop TPR's presence in South Africa: "It takes about five years to find and import the data to give us anything to work with." (Look for stories on TPR's unique computer systems in future issues of the newsletter.)

At various points in his life, Richard has lived in Spain and the "wilds of Somerset", but he now prefers life in cities, commuting between London, Kuala Lumpur, Singapore, Sydney... His three children and four grandchildren expect photos and postcards from his travels, and he periodically remembers to send them. Ever intrepid, Richard volunteers to go on-site as necessary, but TPR's researchers are forever thwarting his plans with their competence, solving cases in Fiji and France without requiring him to board an airplane. He is still hoping for a challenging case requiring his personal attention in the Maldives or Pitcairn Island.