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Avoiding the bad apples

The financial planning industry is subject to a robust statutory licensing regime that aims to ensure people working in the industry are professional and competent. Part of this regime deems it compulsory to undertake background reference-checking on individuals in particular roles.

Regulation predominantly focuses on the licensees and senior members of an organisation, (such as 'responsible officers' and 'responsible persons') having reference checks done on their background. Unfortunately, this leaves a gap for dishonest, incompetent or unethical employees and representatives to penetrate the industry in other, less scrutinised, roles.

Employee guidelines

Late in 2007, the Australian Securities and Investments Commission (ASIC), along with Standards Australia, attempted to close this gap through the introduction of the handbook HB 322-2007: *Reference Checking in the Financial Services Industry*.

The handbook provides guidance to organisations for reference and background checking in the industry.

Similarly, the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act 2006) made it compulsory for regulated organi-



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sations to adopt and implement an AML/CTF program to include employee due diligence.

Background and reference checking is the verification of an applicant's background for appointment to a specific role. Background checks range from skill, experience and qualification verification, to police, bankruptcy and credit checks. The purpose of background checking is to verify an applicant's background, confirm their identity, and verify their qualifications and experience required for the role.

Abuse of trust

Employees and representatives of financial planning practices are afforded high levels of autonomy and responsibility, and are often trusted with a

firm's intellectual property, trade secrets and most importantly, a client's assets. Appointing the wrong applicant by failing to undertake appropriate background and reference checks can have dire effects on a firm.

Deliberate crimes against your firm and clients can include embezzlement, fraud, unauthorised release of confidential information, as well as theft of goods, intellectual property and equipment.

Case studies

The courts have shown that they are prepared to hold firms liable for allowing unscreened employees to have access to clients' assets.

In 2001, the Federal Court of Australia ordered the Colonial State Bank to repay two clients (a couple) \$300,000 plus \$80,000 in interest.

The court found the bank did not take reasonable steps to check the background of its representative, Douglas Johnston, despite accrediting him to sell financial services on its behalf.

Johnston persuaded the couple to invest their money in one of his companies, which later collapsed. It was revealed that Johnston had been bankrupt twice before.

In 2004, an authorised representative of a licensed securities dealer was convicted of obtaining

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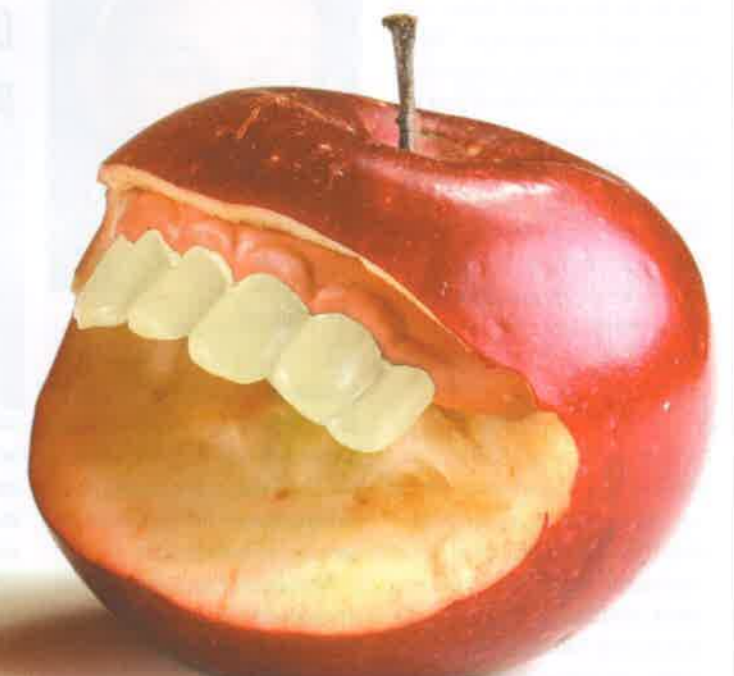
more than \$1 million of financial advantage by deception after becoming involved in a Nigerian scam.

In 2006, a former financial planner for the National Australia Bank was sentenced after encouraging clients to invest in a Bahamas-based scheme, which was not approved by the bank. The clients involved reportedly lost more than \$5 million.

And in more recent years, one must not overlook the damage caused by the collapse of Westpoint.

PeopleCheck, a professional background checking company, was recently asked to perform a background check on a financial planner.

A number of searches were



completed and a bankruptcy under the individual's name was identified. Other searches indicated that at the time of the bankruptcy, the candidate was a director of five companies and, by being so, committed a criminal offence during the period of the bankruptcy.

In another case, a candidate presented what appeared to be a legitimate copy of a degree certificate, but upon checking, it was discovered that the certificate had been falsified.

The candidate's offer as a financial adviser was subsequently withdrawn and it is now understood the individual is working for a firm that does not have a background and reference checking policy in place.

Better safe than sorry

Many financial planning firms continue to rely on the good faith of an applicant's claims on resumes and application forms and are consequently putting themselves, their clients and their business at significant risk.

Background and reference checking will reduce the risk of hiring deceptive, incompetent or inexperienced individuals, and will eventually eliminate 'bad apples' from working in the financial services industry. ✦

Summa McCosker is the director of operations at PeopleCheck. PeopleCheck is a member of the National Association of Professional Background Screeners.

EXCLUSIVE FPA OFFER

When it comes to background screening, it may be worthwhile leaving it to the experts. Navigating your way through a minefield of databases and forms, coupled with numerous phone calls to educational institutions, referees, and government departments can be a daunting and time consuming exercise. PeopleCheck is a background validation company specialising in Australian and international pre-employment checking and due diligence. The company has worked closely with the Financial Planning Association (FPA) to develop a range of background screening solutions to satisfy the requirements of Australian Securities and Investments Commission, the Australian Prudential Regulatory Authority and AML/CTF rules. PeopleCheck can provide FPA members with background checking guidance, as well as full service options. The FPA has endorsed PeopleCheck as its preferred supplier of background screening solutions, recognising that it will help its members to meet their compliance obligations and reduce the risk to the profession of 'bad apples' entering or gaining employment in the industry. FPA members are entitled to exclusive discounted rates.

If you would like to find out more about how PeopleCheck can make background and reference checking easy for you or your firm, please visit www.fpa.asn.au and click on the web tile 'Wearing too many hats?'.