

## Chapter 3 - London City Bond

### A. Background and System

- 3.1 The warehouse at the centre of outward diversion frauds in the London area was the London City Bond. The full extent of the revenue lost in consequence of the frauds emanating from London City Bond will never be known. At the very minimum the revenue evaded was £340 million but the reality, from all the information now available, suggests that the true figure is substantially higher than even that staggering total.
- 3.2 London City Bond is the largest independent excise warehouse in the United Kingdom. Ben Jones and Alf Allington, respectively the former Chairman and Managing Director of London City Bond, acquired the bonded warehousing business of British and Foreign Wharf in the 1980s and changed the name to London City Bond. The business operates in the East End of London. In charge at London City Bond was Alf Allington. He was the authorised warehousekeeper under the provisions of Article 4(a) of EC Council Directive 92/12, one of the directors of the company and in day-to-day control.
- 3.3 In the years 1995-98 the company occupied three sites, the Thames Road industrial estate at Silvertown, Creek Road, Barking and Long Reach, also in Barking. There were a number of warehouses at each site. Customs approval for the Long Reach Road site was given on 6<sup>th</sup> August 1997. By the end of 1997 there were 16 warehouses split between the three different sites. About 80 warehousemen were employed to deal with the bonded goods and were responsible for receiving them, storing them and loading them for removal from the warehouses. London City Bond had about 12,000 customers and by 1998 a turnover of about £9.8 million.
- 3.4 The administration of the business was housed away from the warehouses in separate premises at North Woolwich Road. In 1997-98 there were about 40 administrative staff. Jeremy Pearson was the sales director. The Office Manager was Ray Buckledee. Ed Allington, the younger brother of Alf Allington, was the Operations Manager responsible for administering the day-to-day movements at the Long Reach Road site. He had previously been employed as a forklift truck driver in the warehouses but had moved to the office in 1996. Colette Edwards also worked in the office and was primarily responsible for keying the orders into the computer.
- 3.5 The system operated was simple. Potential customers would call in to say that they wished to open an account. Their request would be passed to the sales director Mr Pearson who would take details from them and complete a New Account Form from the information given to him. From there the form went to the office where Mr

Buckledee or another would input the details into the computer system. From May 1997 there developed a policy that details of any new accounts were given to HMCE. There was no procedure for vetting the new applicants.

3.6 Once a customer had been accepted by London City Bond he was able to trade within the bond, buying and selling duty-suspended goods. If a customer bought goods the seller would inform London City Bond of the identity of the new owner. That new owner was then able to authorise release of the goods. If the goods were to be released onto the domestic market the owner would be required to pay the excise duty. If they were purportedly to go to another bonded warehouse, details of the consignee bond would be required. Instructions and details were usually communicated by fax. The order forms, any faxes concerning movement of goods and consignment notes were kept in the office and were accessible to Customs officers should they at any time wish to look at the documents.

3.7 When goods were released from London City Bond, the driver was provided with the AAD. Until 1997 a copy of the AAD was retained by London City Bond in the customer's file. Once the receipted copy of the AAD had been received back from the consignee bond the retained copy would be replaced by the receipted copy in the records. Alf Allington normally dealt with the post which he would open and pass any returned AADs to Ed Allington so that he or Colette Edwards could substitute the returned AAD for the copy AAD retained on the files at LCB. In early 1997 a computer system was introduced at London City Bond. Thereafter a computer-generated four-part AAD was printed in respect of each transaction. However there was no longer any copy of the AAD kept at London City Bond. The system permitted the staff to record that a receipted AAD had been received and that document should have been filed as a business record.

### **Enforcement of Excise Control**

3.8 In relation to enforcement of excise control at all bonded warehouses during 1995 - 1998, including London City Bond, there were three distinct elements within HMCE: inspection, detection and disruption. First there were the **warehouse audit teams**. They regulated the activities of the bonds on a systems-based control, by looking at documents to see whether there had been compliance with the regulations. The audit team responsible for London City Bond was the South London and Thames Collection Unit based at Romford. In charge was John Hoble, a Band 9 Customs officer and the audit team manager. In his absence on secondment Lesley Dearing, a temporary Band 9, had responsibility for Excise and Inland Customs for the Romford Unit. She in turn was the manager of Lesley Blackburn and John Pratt. Mrs Blackburn was the senior officer of the Warehousing team in Romford. Mr Pratt did most of

the hands-on work with help from an Administrative Assistant below him.

- 3.9 Mr Pratt was the Assurance Officer for London City Bond and as such was required to carry out audits of stock control and accounting systems. It was also his responsibility to ensure the business was operating in accordance with the appropriate procedures. His contact was with Alf Allington, the warehousekeeper. When the team visited the warehouse they would examine and if necessary remove documents from the records. If documents were removed the team gave receipts to London City Bond from a duplicated receipt book so that the warehousekeeper would have a copy and so would the audit team.
- 3.10 The second element of control was the **investigation branch**, the NIS. In this area of criminality the NIS role was that of detection and investigation of excise fraud with a view to prosecution of those involved. There were two elements to their work: intelligence gathering and investigation of offences. All Customs officers involved in each part were members of the NIS. Between 1990 and March 1998 Cedric Andrew was the Assistant Chief Investigation Officer (ACIO) in the NIS responsible for a Commercial Fraud branch in the London area. The branch included both operational and intelligence teams dealing with customs and excise frauds. As such he was in charge initially of five teams, each of which was under the command of a Senior Investigation Officer (SIO). Four of the teams dealt with customs-related fraud. A fifth team, Customs Team E, dealt with excise fraud.
- 3.11 In 1995, in response to the growing problem of excise fraud, Customs Team E was split into two teams by the formation of Team F. The role of Team F was to concentrate on operational activity, leaving Customs Team E to focus on research and intelligence and to provide occasional operational support to Team F. To reflect its changed role Customs Team E became known by the acronym EXCIRT – Excise & Customs Intelligence and Research Team. As excise fraud increased the title was changed to EXIRT – Excise Intelligence Research Team. Later a further operational team, Customs Team G, was formed, also to deal with excise fraud. From its creation until June 1997 the SIO of EXCIRT was Bob Snuggs, a long serving customs officer with nearly 40 years experience. From 1997 onwards the SIO was Tim Connolly. Mr Andrew's immediate superior was Paul Acda, a Deputy Chief Investigation Officer (DCIO) and then Head of Commercial Fraud Operations in the NIS.
- 3.12 EXCIRT, later EXIRT, was a small unit, intended to consist of about 13 officers but often operating below strength. The function of EXCIRT was to obtain intelligence in relation to possible excise fraud. When an intelligence officer suspected that a target was engaged in fraud, the officer would carry out what intelligence

checks he could. He would then put together an intelligence package, which would detail all his suspicions and his grounds for having those suspicions together with the documentation and information required to start a fraud investigation operation.

3.13 One of the Customs officers in the EXCIRT team was Bernard (Bernie) Small. He features prominently in the unfolding saga of London City Bond. Bernie Small was a Customs officer at Executive Officer grade working in NIS. He joined HMCE in September 1989 as a Local Control Officer working in Excise in Southwark. His job was to visit distilleries, breweries, and betting shops to check compliance with the regulations. He had received on the job training and had attended some training courses. In 1991 he moved to an Excise Fraud Investigation Team (EFIT) under the same Collection Unit. His work involved small investigations, for example checking retail outlets and verifying that they did not have any duty free alcohol or cigarettes on sale. Again he learnt as he went along. In September 1993 he joined the forerunner of the NIS, the Investigation Division, as an Executive Officer, Investigator. He was allocated to a commercial fraud team covering suspected instances of fraud in excise goods. In 1995, when EXCIRT came into existence, he was allocated to it. He gathered intelligence by developing sources within the industry, including bonded warehouses.

3.14 The intelligence package prepared by an intelligence officer would not contain sufficient information in the form of admissible evidence to prosecute anyone. The package would go to the SIO of EXCIRT. He evaluated the package and, if satisfied the package contained significant potential for a full investigation, would then liaise with an operational SIO. Sometimes lack of resources meant that there would be no team of investigators available to take on the inquiry. If however it was decided that an investigation should take place the intelligence package was passed on to a Case officer nominated by the operational SIO. The Case officer then headed a team of investigators who conducted the actual investigatory work and obtained evidence. Each investigation was given an operational name.

3.15 In both intelligence and operations the SIO was in a pivotal position. In operational work he was the manager of a team of investigators and in charge of those cases where Case officers under his command had been nominated by him to investigate them. There might be a number of operations ongoing at any one time. The SIO relied on information from his Case officers to build up a Weekly Note intended to reflect the development of each investigation. He passed the Weekly Note to his ACIO. A similar management structure was in place for the EXCIRT team. The intelligence officers were under the control and supervision of the SIO, who in turn reported on the development of intelligence to the ACIO so that resources could be

deployed to the best effect. It was however only at the level of ACIO that the two strands of the law enforcement team came together. There was no structured way in which the investigators could know what the intelligence-gatherers were doing, or the other way round, further down the chain.

- 3.16 The third element of control was **the IMPEX initiative**. Work on this began in 1996 and national teams were formed in April 1997. The IMPEX (Import/Export Verification) team was tasked to look for alternative means to detect and disrupt the diversion activity without recourse to costly and time-consuming criminal prosecutions, whilst at the same time protecting the public revenue. The IMPEX initiative was intended to stem diversion fraud by bringing in a second tier approach to the problem and to augment the prosecutions policy. It was a national policy. The Customs officer assigned to head the team in the area where London City Bond was located was Janice Wanstall, an officer with 20 years experience, including familiarity with excise fraud.
- 3.17 In disrupting fraudulent activities the IMPEX team would look to identify non-credible account holders, people who had accounts in the Bond but with no credible business or no business at all other than as a means to remove product from bond under duty suspension. The team would identify those people to see if they could track who they were but then in any event prevent goods from leaving the warehouse from that account holder. If they found goods on the UK market on which duty had not been paid then those goods were seized.
- 3.18 There was plainly a tension between the objectives of a local audit team seeking to ensure compliance with the rules, the NIS who sometimes allowed frauds to run in order to carry out a criminal investigation, and the IMPEX team who wished to disrupt the fraudsters.

## **B. Excise Diversion Frauds at London City Bond**

### **The First Fraud**

- 3.19 In this section I set out an account of events at London City Bond between 1995 and 1998 and my conclusions in respect of those events. The detail in the account is derived from evidence given at the trials, appeals and before Mr Justice Grigson, my inquiries made in the course of the Review and from the documents provided to me. The reader should understand that not all the documents referred to and relied upon were disclosed to prosecuting lawyers at the time of the trials later described.
- 3.20 The first major investigation of excise diversion fraud out of London City Bond was code-named Operation Fluke. It was in the course of that operation that the NIS recruited an informant at London City Bond to assist their investigations. The informant was Ed Allington. In 1995, when he was still working as a forklift driver, Customs used the facilities at London City Bond as a Queen's Warehouse for storing goods seized by them in anti-smuggling operations. As part of his normal work Ed Allington received and dealt with the contraband goods and in consequence got to know a Customs officer who sometimes delivered contraband which was to be stored at the warehouse. Ed Allington expressed some interest in the activities of HMCE. The officer thought the contact might be worth developing and thus introduced Ed Allington to Bernie Small, the intelligence officer.
- 3.21 Bernie Small recognised the value of having an informant inside the warehouse and recruited Ed Allington to that position in April 1995. Ed Allington was registered as a confidential informant in accordance with proper practice then in place. Bernie Small became Ed Allington's handler. Bob Snuggs, as his SIO, was Ed Allington's controller. However, Bernie Small received no training on informant handling. He knew there were Home Office guidelines and thought that the HMCE guidelines were the same thing. He was never given a copy of the relevant guidelines.
- 3.22 Once Ed Allington was registered as an informant Bernie Small tasked him to note details of vehicles and the consignments they were carrying in relation to any movement of stock transacted by Hare Wines, a company of interest to him, and pass on that information to him. This ultimately became Operation Fluke. In May 1995 Bernie Small paid him £500 in cash in return for the information he was providing. It was the only payment ever made to him. Bernie Small recorded the information he received from Ed Allington on informant contact sheets which were kept in the custody of his controller, his SIO. He also recorded some less sensitive information in a daybook, an exercise book in which an officer would record items of information received or actions carried out by him which were not recorded more formally in a Departmental Notebook, a witness statement or on informant

contact sheets. The use of a daybook for such purposes was (and is) common practice.

3.23 Between May and August 1995 Ed Allington provided a considerable amount of detail to Bernie Small about the activities of the suspected fraudsters. Bernie Small in turn passed that information on to the Case officer who was tasked with investigating the offenders. There would be what Ed Allington describes as a “flurry of phone calls” towards the end of each week either to or from Bernie Small. As the lorries carrying the goods to be diverted were loaded up he would pass on a description of the unit and trailer, the registration number of the vehicle, the details of the consignment and the time they were leaving.

3.24 As things developed Ed Allington came to learn from gossip in the yard that the goods leaving London City Bond purportedly for export were in fact being diverted onto the domestic market in Barking, Essex. About a dozen lorries a week would go from the bond and every time a lorry left Ed Allington contacted Bernie Small by phone and told him about it. In mid-August the investigators decided they had amassed sufficient evidence and put in place plans to arrest those responsible. In customs parlance such an operation is known as the “knock”. Operation Fluke was knocked on about 17<sup>th</sup> August 1995. Those involved were arrested and charged with conspiracy to cheat the revenue. Most were subsequently convicted.

### **Diversion Fraud Expands**

3.25 With the successful conclusion of Operation Fluke diversion fraud from London City Bond was somewhat reduced for a time, but by 1996 it was back and it was bigger. There were many separate operations which involved outward diversion fraud from London City Bond. Sometimes the fraudsters used goods diverted only from London City Bond; sometimes other Bonds were also used, in particular Fort Patrick. Goods ostensibly destined for France, Spain or Belgium finished up in London, the Midlands, the North West of England, Northern Ireland and Scotland. For the purposes of this Review HMCE have identified 36 operations where prosecutions have begun in respect of diversion frauds linked in some way to London City Bond.

3.26 The audited accounts of London City Bond tell a graphic tale. The total turnover for the year ending 31<sup>st</sup> March 1994 was £1.8 million. In 1995 it was £2.5 million, in 1996 £3.8 million, and by 1997 had risen to £5.7 million. For the year ending 31<sup>st</sup> March 1998 the turnover was slightly less than £10 million producing a trading profit of over £1 million out of which Alf Allington himself received fees of £864,691. The increased business, of which a significant proportion was attributable to fraud, provided a

handsome financial return to both the business in general and to Alf Allington in particular.

3.27 That, however, was the inevitable consequence of the policy of investigation determined at senior management level within the NIS. Cedric Andrew identified the problems in his letter of 26<sup>th</sup> July 1996 to Mr. McGregor, then Deputy Chief Investigation Officer (DCIO) in the commercial fraud division of the NIS. He spelt out the very substantial nature of the frauds, the consequential massive loss of revenue, the complexity of the frauds and the time and resources needed to investigate them. He observed that without the information provided by co-operating tax warehouses, which enabled the NIS not only to identify the fraudulent companies but also monitor their activities, the NIS would be severely handicapped in tackling the systematic frauds. In his opinion there was little alternative but to indemnify the cooperating warehouses from any revenue liability if the NIS were to continue to utilise this valuable source of information. He added:

The role of the NIS is to identify the principals behind major frauds and to arrest and convict them and their associates. Major excise diversion frauds take at least six months to investigate, during which time there will be a significant loss of revenue which the Department may not be able to recover in full. If we are to achieve any success against the criminal elements involved in these frauds, I believe that this should be regarded as an acceptable risk. The alternative course of action is to “knock” these cases much earlier. Whilst this would have the effect of limiting the loss to the Revenue, the probable result would be a series of small cases involving the arrest and possible conviction of the low level conspirators. This is not the role of the NIS.

3.28 It was this policy which was followed over the next two years and in which London City Bond, Alf Allington and Ed Allington played their important part. Cedric Andrew considered that this policy addressed a finite problem with a medium term solution. The policy and the effect on the revenue has been extensively analysed and criticised by a number of commentators within HMCE and elsewhere. In particular the Roques Review enquired into and reported on the activities and policies of the NIS in investigating diversion fraud, a Review published in December 2000. Roques made many recommendations designed to address the policy issue, most of which have now been implemented (see Chapter Nine and Appendix Seven). It is no part of my terms of reference to revisit the ground already comprehensively covered by him.

## **The Signs of Fraud**

- 3.29 Ed Allington continued to be of great value to Bernie Small in his role as confidential informant. In 1996 he moved from his job in the warehouses into the office and became the Operations Manager. There he not only provided information about the movement of goods when asked to do so, but went further, in that he learned from experience and his knowledge of the trade to detect potential fraudulent activity before ever it had taken place. The record of contact between Bernie Small and his registered informant Ed Allington clearly demonstrates that on a number of occasions Ed Allington was instructed to facilitate and assist customers suspected of fraudulent activity.
- 3.30 By way of illustration, in June 1997 Ed Allington reported to a Customs officer, not Bernie Small, that he had been requested to supply duplicate AADs for a customer whose driver had lost the originals. He was given authority to do so, handing over the documents to a driver who called to collect another load from the warehouse. There were other similar calls from customers requiring cooperation from Ed Allington in relation to AADs which had not been returned. The tone of the contact as recorded by Bernie Small and other officers of the NIS between Ed Allington and customers plainly demonstrated that the customers believed Ed Allington was assisting them in the frauds – as indeed he was.
- 3.31 Typically Bernie Small would spend some months, occasionally only weeks, gathering intelligence in respect of specific suspect customers at London City Bond before handing the fruits of his intelligence-gathering to a Case officer for operational investigation and subsequent arrest. His task was made much easier by the assistance he and other members of the NIS received from those at London City Bond. Alf Allington was very experienced in the trade. The volume of business London City Bond transacted was considerable. The office staff were professionals who knew their jobs and were fully alive to the possibility of fraud. With the intense interest shown by the NIS in customers at the Bond it would be extraordinary if it were otherwise.
- 3.32 The evidence adduced before Mr Justice Grigson and the material I have considered make it abundantly clear that to the seeing eyes of those involved in the excise warehouse trade at London City Bond it was not difficult to spot a fraudster. There were a number of telltale signs, which in combination became effectively diagnostic of fraud. In no particular order the signs were:
- the size of the bottles despatched from the warehouse, which would be imperial rather than metric;
  - the nature of the customer's business: goods despatched from the Bond very soon after coming into it, and despatched fully palletised, in the sense that the loads were

not broken down, thus keeping warehousing charges to a minimum;

- faxed instructions with no address or return fax number;
- handwriting on the faxes which was identical to that on earlier faxes from a company using a different name;
- the voice on the telephone placing the order as being that of a caller who, using a different name, had placed orders for a different company on earlier occasions;
- payment of London City Bond warehousing charges in advance and in cash;
- repeated visits on the same day by the same driver and the same lorry when the goods were ostensibly intended for destinations in Spain or France;
- receipted AADs returned not singly in envelopes posted in Spain or France but in a batch by courier; or by the drivers themselves; or in envelopes bearing English stamps. Any one of those methods of return was a clear indication that the goods had never been abroad.

### **Involvement of Alf Allington**

3.33

Whilst Ed Allington continued to be of assistance to the NIS, it is clear that as the months passed Alf Allington became more and more involved in the provision of information to Bernie Small. Initially that information was general, and of no great intelligence value or operational importance. Gradually, however, Alf Allington replaced his younger brother as the principal source of intelligence at London City Bond. From 1996 until March 1998 Alf Allington regularly voluntarily supplied information and on occasion was tasked by Bernie Small to perform specific acts in order to gain further intelligence. Alf Allington has given no evidence about such activities, but I see no reason not to rely on the contemporaneous documents created by Bernie Small and others in HMCE at the time, supported as they are by the evidence of Ed Allington.

3.34

In Bernie Small's daybook are many references to information supplied by Alf Allington of details of loads, lorries, identities of customers and the like. As early as March 1996 Bernie Small records that he had learnt from Alf Allington that he was going to have lunch with men who wished to discuss ways of defrauding the excise system. Bernie Small tasked Alf Allington to get as much information as possible on that occasion about company names, banking systems, how the company paid and whether the fraud was already running. He told Alf Allington that at the end of the discussion he was not to agree to take part in any fraud but could say he would think about it and get back to them.

3.35 In July 1996 Bernie Small informed his SIO and ACIO about the assistance the Department was receiving from London City Bond. On 26<sup>th</sup> July 1996 he wrote to them:

As you are aware London City Bond have been, for some time, a valuable source of intelligence in the area of excise fraud....The company have approached ourselves with information about various companies who operate from the bonded warehouse and have been tasked to keep myself and others informed about the activities of excise targets who use the bond....

Without the assistance of London City Bond .... operations would be more difficult to carry out and would take up substantial investigation resources. As matters stand the quality of the intelligence received obviates the need to expend resources which can be deployed elsewhere. ..I would therefore request that consideration be given to protecting this relationship by indemnifying the bond against losses of excise duty on non-discharged loads.

Bernie Small concluded by identifying six operations dependent on intelligence from London City Bond in which revenue totalling £43 million had been evaded. Bob Snuggs wrote to Cedric Andrew in support of the submission.

3.36 By the autumn of 1996 Alf Allington was clearly anxious about the assistance he was giving and the exposure of London City Bond to risk of assessment for duty on fraudulent loads. On 17<sup>th</sup> October 1996 he wrote to Bernie Small requesting confirmation that HMCE would not take any steps to enforce the bond guarantee in the event of the AAD not being returned or discharged correctly. The letter expressed concern about that possibility

...after the continued support our company feel we offer to HM Customs & Excise in the fight against this fraud.

As you are aware our company carry out numerous exports on a weekly basis from stock initially received from approximately ten customers which is then transferred to numerous customers, all of this information is passed to HMC & E and has been for a considerable period of time.

3.37 Alf Allington received a reply dated 30<sup>th</sup> October 1996 from Bob Snuggs, the SIO. His letter has been described elsewhere as “a masterpiece of obfuscation” and “unhelpful.” It was at best Delphic. Bob Snuggs did not answer Alf Allington’s enquiry, instead informing him that the matter was “subject of a current policy line.” He hoped that considerations currently in hand at top management levels would enable the Department to provide a positive response in the near future. Whatever hopes Bob Snuggs may have entertained when he wrote the letter proved unfulfilled. By 14<sup>th</sup> January 1997 Alf Allington had received no proper response and wrote again to Bernie Small:

I refer to my previous letter to yourself dated 17<sup>th</sup> October 1996 regarding our concerns of having our bond guarantee called upon even though we continue to offer our support and help to HM Customs & Excise in the fight against fraud... We would therefore once again request your help in offering ourselves some comfort for the help we continue to offer HM Customs & Excise.

3.38 There was never any reply to that letter. Nor however was any attempt made by the Department to enforce the guarantee or to assess London City Bond for any outstanding duty referable to outward diversion fraud.

3.39 I conclude that although no written promise was ever given that the guarantee would not be enforced, there was plainly at the very least a common understanding that the guarantee would not be called upon. London City Bond would never have requested such an immunity and HMCE would not even have considered granting it if they were not receiving information and considerable co-operation from the warehouse. The NIS must have known that one or other of the Allingtons would themselves allow the frauds to take place by signing AADs for goods purportedly going to destinations they knew to be false.

#### **Perceptions of the Warehouse Audit Team**

3.40 On 19<sup>th</sup> June 1997 there was a meeting at London City Bond attended by Alf Allington, Lesley Blackburn and John Pratt. Mr. Pratt produced a list of outstanding AADs. A concern discussed at the meeting was that Alf Allington did not hold an indemnity for movements where he was assisting the NIS.

3.41 No doubt in consequence of that meeting, on 24<sup>th</sup> June 1997 John Hopley, from the audit office at Romford, sent an email to Andrew Scott, next above him in the chain of command, in which he expressed concern about the situation at London City Bond and the vulnerability of the warehousekeeper in the absence of a formal indemnity. He identified a total of about £40 million in missing revenue, some of which was due to Birmingham NIS who had asked Alf Allington to allow despatch to a suspect destination. He pressed the need for the NIS to give the warehouse a specific indemnity for all suspect customers and destinations and drew the attention of Mr Scott to the fact that two members of staff at the bond were working full time on NIS matters. In that respect his information was clearly right: Ed Allington and Ray Buckledee were the two employees so engaged.

3.42 Mr Scott duly forwarded the email to Mike Marsden, the ACIO at Branch 4 in the NIS, with a copy to Bob Snuggs, observing that the note was worrying and adding:

We need to do something to bring NIS involvement at London City Bond under control.

Bob Snuggs did not seek to contradict or comment upon the content of Mr Hobley's e-mail in any way.

- 3.43 In July 1997 Mr Pratt wrote to the Senior Officer of the Romford WET/REDS team, (the team responsible for excise warehousing and registered excise dealers and shippers) pointing out that the potential revenue loss from London City Bond was in excess of £30 million and that the outstanding duty should either be written off as NIS operations or assessed against the trader, thus putting him out of business. Mr Pratt's letter continued:

I feel that it is about time some decision was made as to whether this trader should still be encouraged to take on suspect customers and to despatch goods underbond to dodgy destinations... Two of the trader's staff appear to be working full time on NIS matters....

I can't see how the present situation can be allowed to continue whereby large quantities of revenue are literally walking out of the front door and that they just remain outstanding until the NIS have enough evidence to take a case to court.

- 3.44 Lesley Blackburn, for her part, wrote to Mr Hobley at the end of July 1997 seeking guidance on the proper amount at which the guarantee provided by London City Bond should be set. She suggested a figure at the higher end of the guidelines, adding:

But this is largely due to the work that the NIS encourage him to do.

- 3.45 On 22<sup>nd</sup> October 1997 Mr Hobley expressed his frustration about the activities of the NIS at London City Bond when writing to the Excise Policy Group (EPG). He wrote:

We have long had difficulty in gaining access to this trader because of NIS involvement. Indeed we have to contact them for permission before we can visit our own trader...The NIS encourage the warehousekeeper to accept business from suspect customers and use him as an informant.

- 3.46 The warehouse audit team, in regular direct contact with Alf Allington and frequent visitors to the warehouse offices, were in no doubt that Alf Allington and London City Bond were co-operating with the NIS and with their encouragement and approval allowing suspect loads to leave the warehouse. No one within the NIS suggested at the time that his or her understanding of the situation

was wrong. I am quite satisfied that, notwithstanding later events at one of the trials<sup>1</sup>, their perceptions at the time were entirely accurate

### **Increased involvement of Alf Allington**

- 3.47 From the spring of 1997, notwithstanding the absence of any written indemnity, Alf Allington became increasingly involved in assisting the NIS. Bernie Small asked Alf Allington to provide him with further information about new customers. He complied with that request by supplying copies of the account opening form, the letter heading of new customers, their VAT registration documents and the details of the haulier they were using. Between May 1997 and February 1998 he gave the details of 89 separate companies who had opened new accounts at London City Bond. On each occasion he concluded his covering letter with the words: "Do please let us know if you require us to seek any further information." Many, though not all, of those companies were the targets of an intelligence investigation by EXIRT. None of those investigated was trading legitimately: all those investigated were engaged in diversion fraud.
- 3.48 Alf Allington's assistance was not confined to the provision of formal information about customers. During the same period he provided detailed information about suspicious activity of customers using the Bond. This information typically identified customers who were returning AADs by methods which blatantly indicated the fraudulent nature of their business, the use of addresses from which post was being returned by the Post Office, and changes in name of companies trading with the Bond. A number of fraudsters took Alf Allington into their confidence, speaking openly to him about problems with bogus stamps and forged AADs. On occasions he arranged meetings with suspects at the behest of the NIS to assist with identification issues. He provided tapes from the CCTV system within the office for a like purpose. In some cases where the frauds were obvious Alf Allington closed the account of the customer; but on other occasions, when the fraud was just as obvious, with the agreement of HMCE the account would be kept open and trading would continue.
- 3.49 Business increased to such an extent that in July 1997 London City Bond opened a new warehouse in Long Reach Road, Barking. One object of this development was to gather all suspicious potentially fraudulent transactions on one site. Thereafter Ed Allington spent a substantial part of his working week doing paperwork for fraudulent loads with sometimes as many as 30 – 40 lorries loaded with goods destined to be diverted leaving the Bond on a single day. Partly as a result of the increased level of fraud London City Bond turnover increased considerably. Alf Allington received substantial bonuses,

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<sup>1</sup> See trial of Operation Fallover.

the company did better than its rivals, and Ed Allington himself received a higher wage.

3.50 On some occasions in early 1998 London City Bond provided duplicate AADs to customers in circumstances where the expectation was that they might well be returned with forged stamps. There were also occasions when Ed Allington was instructed by Bernie Small to send lorries away to return later so that surveillance could be put in place.

3.51 There are a number of instances recorded by Bernie Small in which Alf Allington reported that he had been offered and took cash payments from customers which were obviously intended as a bribe. There is no basis for concluding that Alf Allington ever accepted a bribe which he did not at once report to HMCE and subsequently pay over to them, but of course the fraudster did not know that. In October 1997 Bernie Small records Alf Allington telling him of a proposed meeting at London City Airport with new customers who, he reported, “knew the game and were going to make him an offer he could not refuse.” Some weeks later Alf Allington reported that the customer had called to see him, bringing a quantity of AADs stamped up and a bribe of £2,000.

3.52 On one occasion Bernie Small records Alf Allington reporting a conversation with one of his customers who had heard of a visit from Customs officers to one of his suppliers. He was very worried about that news, had decided to close the company down and re-invent it as something else. A few days later Alf Allington reported a further bribe of £5,000, the customer saying that his company wished to move loads either early in the morning or late in the evening, thereby thwarting any HMCE interest. The customer further informed London City Bond of a change of name of both the haulier and customer itself. On 24<sup>th</sup> December 1997 Alf Allington accepted a large bribe. A stranger to Alf Allington had been in to see him at London City Bond saying that he was the new main man for one of the customers with whom the Bond was trading. The man gave Alf Allington two carrier bags containing £100,000 which he described as a “Christmas bonus”.

#### **Alf Allington as a Witness**

3.53 Alf Allington was a witness in virtually all of the prosecutions brought in respect of diversion frauds running out of London City Bond. HMCE believes it has retrieved all the statements he made in connection with those prosecutions, although it cannot be absolutely certain about this. Those retrieved demonstrate that between 25<sup>th</sup> October 1995 and 19<sup>th</sup> October 1999 he made a total of 30 statements and “further to” statements in respect of the operations.

3.54 His evidence in each case concerned the administrative systems in place at the warehouse and how duty-suspended goods were

legitimately exported. Further, through him the prosecution produced the necessary documentary evidence, in effect the business records of London City Bond, to prove the despatch of the loads said to have been fraudulently diverted.

- 3.55 An important part of the documentary evidence in each case was the AADs in respect of the loads allegedly diverted, the movement document which had been falsified and returned by the fraudsters to the Bond. Thousands of such documents were collected from London City Bond by Case Officers and by Bernie Small. In subsequent proceedings the documents were produced by Alf Allington, as the warehousekeeper.

### **The End of the Frauds**

- 3.56 The outward diversion frauds at London City Bond came to an end in the spring of 1998. Mr Higgins, the Deputy Collector of South London & Thames Collection, wrote to Mr Acda, the DCIO responsible for fraud, expressing increasing concern of Senior Management relating to the release of goods in duty suspension at the behest of the NIS when there is reason to believe that the goods will be diverted. He added:

We fully understand that these consignments are released to assist the NIS to gather sufficient evidence to institute criminal proceedings...I fully realise that ... consignments may continue to need to be released on authorisation from the NIS.

- 3.57 Mr Acda replied on 24<sup>th</sup> February 1998, making a clear statement about the knowledge and understanding of senior management. He wrote:

I am surprised to learn that Senior Management in South London & Thames Collection have an increasing concern in relation to the release of goods in duty suspension at the behest of the NIS as this practice has been in operation for some time....The consignments released have...been fundamental in ensuring we gather sufficient evidence to institute proceedings...Cases have been strictly controlled at ACIO level.

- 3.58 Later that month the DCIO required all ACIOs to provide any relevant information about London City Bond because of the substantial number of outstanding prosecutions and investigations. In consequence on 3<sup>rd</sup> April 1998 Cedric Andrew, as one such ACIO, sent an e-mail to all ACIOs involved in fraud cases and to Tim Connelly the SIO at NIS EXIRT. His principal concern was to identify the amount of revenue lost as a result of the NIS operations and continued:

We are ...looking at movements through LCB which appear to have been diverted but where no action has been taken by NIS...it can and no doubt will be argued by the warehousekeeper that he is not liable for the duty because he

cooperated with the NIS either by letting the product leave LCB at our request or by informing us of new, potentially “suspect” customers for what ever action we choose to take...This note should not be discussed outside the NIS.

3.59 Cedric Andrew added that NIS would accept responsibility for all trading activities through London City Bond before 1<sup>st</sup> April 1998. The content of Mr Andrew’s email and his acceptance of responsibility is again powerful support for the conclusion that the NIS were fully aware of what the warehousekeeper was doing, were perfectly content for him to continue to trade with suspect customers and indeed effectively encouraged him so to do.

3.60 However, as from 1<sup>st</sup> April 1998 HMCE drew a line in the sand. The safeguards and procedures identified in Paragraph 2.18 were put in place and control of London City Bond was returned fully to the Romford Excise team.

### **The Involvement of the NIS in fraud at London City Bond**

3.61 In a statement made in October 2000, in circumstances to which I shall refer later in this Review<sup>2</sup> Alf Allington asserted that HMCE allowed excise diversion fraud to take place from London City Bond and allowed him to put in place the accounts and facilities enabling the fraud to be committed. In that statement Alf Allington went on to say that London City Bond was not an innocent vehicle through which fraud was perpetrated. On the contrary, said Mr Allington, he and his staff knew that the frauds were taking place, and knew the identity of the companies committing the frauds. They could have stopped the frauds: without their co-operation the frauds could not have been committed. The NIS were fully aware of that situation.

3.62 Alf Allington has not supported those assertions in evidence. However, in the light of all the circumstances, some of which I have set out in detail in the preceding paragraphs, I am left in no doubt that in broad terms his assertions are correct. There is no other sensible explanation. Alf Allington and Ed Allington were supplying information and intelligence about suspect customers and their activities over many months. From time to time they were tasked by the NIS to obtain specific intelligence through contact with the customers. Alf Allington received several bribes from customers, all of which he reported to the NIS but which clearly demonstrated that the fraudsters believed he was prepared to assist them in their frauds. Indeed, he and his employees did assist them and many others: they did so deliberately and knowingly.

3.63 London City Bond was not an unknowing dupe through which all the fraud was perpetrated. In some cases the NIS and presumably Alf Allington did not uncover the frauds until after they had been

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<sup>2</sup> See trial of Operation Paleface and Escapade in Chapter Four.

perpetrated. However in many instances Mr Allington and his staff knew – certainly after the first few transactions with each new company – that the frauds were taking place and knew the identity of the companies and their intention to commit the frauds.

3.64

In letting loads run in the expectation that they would be diverted London City Bond were encouraged by the NIS. From the perspective of the NIS there was nothing improper in that encouragement. The purpose of allowing loads to run was to identify and obtain evidence against the principals behind the frauds. Providing such a strategy did not amount to entrapment (a suggestion I consider elsewhere in the Review) the policy was a legitimate investigation technique. But disclosure of the use of that technique to the prosecution teams was essential. It was the failure to do so that led to many of the difficulties identified in the following chapter.