

ISSN 1758-8413

# Current Criminal Law

online

SALLY RAMAGE®

[www.sallyramage.net](http://www.sallyramage.net)

## Contents -

### Volume 2 Issue 2 December 2009

**'Corporate fraud: backdating share options'**

**'Dangerous dogs'**

- Chief Editor: Sally Ramage, Member of the Chartered Institute of Journalists; Society of Editors and Society of Legal Scholars, UK.
- Consultant Editors: Anand Doobay, Partner, Peters & Peters Solicitors, London, UK.  
Leonard Jason-Lloyd, Visiting Fellow, Midlands Centre for Criminology & Criminal Justice, UK.  
Roderick Ramage, Consultant, Mace & Jones Solicitors, Liverpool, UK.  
David Selfe, Deputy Director, Law School, Liverpool John Moores University, UK.  
Edward S. A. Wheeler, IT Manager, Medway Council, UK.
- Design: David. E. Tonkinson, Designer and Online Editor, Poole, UK.

# Corporate fraud: back-dating share options

by

Sally Ramage, BA (Hons). LLM, MBA, MPhil, FFA, ASLS.

## Introduction to back-dating of share options

The backdating of share option grants by public companies may possibly have occurred in thousands of companies in the USA, UK and elsewhere. In the United States, several dozen companies have received inquiries from the SEC or they may have received grand jury subpoenas from the United States Attorney's Offices. Shareholders in the US have filed over 60 civil lawsuits alleging breach of fiduciary duty following internal investigations of option grant practices

Whether companies backdated or manipulated option grants to enable executives to utilize a lower than current market price is the issue. 'Backdating' involves the use of a grant date for a share option that comes before the date when the decision was made to award the option. This allowed the option to be back-dated to when the awarding company's share price was lower, increasing the potential profit for the executives when the option is exercised. To investigate for option backdating, the investigator looks into whether options were deliberately backdated to periods when a company's share price was at or near a record low and whether this was properly disclosed and accounted for. Option backdating raises a number of issues of potential concern to public companies and option grant recipients. Whether a company's option grant practices are consistent with its public reporting is one issue. Some US companies face securities fraud class actions and derivative actions raising this issue, or related issues about internal controls, corporate governance and fiduciary obligations.

Whether backdated grants made at below fair market value received proper accounting treatment is another issue and failure to follow accounting rules may require such a company to amend and restate its financial statements, depending on jurisdiction. A third issue is the tax treatment of options. Companies must consider whether they have adequate policies,....

## **Dangerous dogs**

**By**  
**Roderick Ramage<sup>1</sup>**  
**and Sally Ramage**

### **Introduction**

Police reported that a four year old British boy was killed on Monday; 30 November 2009 was very distressing.<sup>2</sup> It appears that the police had received a complaint from a member of the public, which complaint stated that dangerous dogs were being bred in that particular domestic abode where this little boy was mauled to death. Although the police are not responsible for the matter of dog breeding, as will be made clear in this article, it would have cost the police nothing to show the complainant the relevant section of the legislation and point the complainant in the direction of the local authority.

However, if that police station had received a complaint to the effect that a particular dog is dangerous, the police could apply to the magistrates' court in relation to a dangerous dog.

[The magistrates' court has powers to order the owner of the dog to keep it under control or to have it destroyed. Depending on the circumstances, a single act of dangerousness committed

---

<sup>1</sup> Roderick William Ramage is a Solicitor, a consultant to law firm Mace and Jones Solicitors and to law firm Kent, Jones and Done Solicitors and is the Chief Editor of Kelly's Draftsman for thirty-nine years.

<sup>2</sup> Hemming, J. (2009) 'Dog kills four year old boy', Reuters, 30 November 2009 (accessed at [uk.reuters.com/article/idUKTRE5AT23E20091130](http://uk.reuters.com/article/idUKTRE5AT23E20091130)).

by a dog is enough evidence for a magistrates' court to treat the dog as a dangerous dog, whether or not the dog has injured any person.<sup>3</sup>

There are some very dangerous dogs being bred in the United Kingdom as pets. They are all very strong and quite heavy compared to the weight of a frail woman or a young child. The pit bull terrier weighs 55 to 65 pounds, and has very strong jaws. The rottweiler weighs twice as much as the pit bull terrier and is used as a guard dog, has intense territorial instinct and is very aggressive. The German shepherd dog is as heavy as the rottweiler and is the choice of the police. The Husky dog weighs as much as the pit bull terrier and is bred as a guard dog. The Alaskan malamute is very heavy at 75 to 100 pounds and is very energetic. The Doberman pinscher is also heavy and is bred as a guard dog, being as heavy and as aggressive as the Chow-Chow. The Presa Canario is the heaviest of the dangerous dogs and has huge and deadly force. The 590 pound boxer is also very aggressive, as is the Dalmatian dog. However, it must be remembered that all dog breeds are potentially dangerous.

### **Dangerous dogs used by gangs**

A relatively recent phenomenon is the use by criminal gangs of aggressive dogs.<sup>4</sup> They are using these dogs, in place of guns and knives, to protect their territories, shield under-age drinking and drug dealing. These gangs rarely have their dogs neutered and it is a fact that an unneutered male dog (an offence under section 1 (3) of the Dangerous Dogs Act 1991) gives off a certain smell that is threatening to another male, and this is how bites and attacks occur....

### **All articles are available on Westlaw.**

---

<sup>3</sup> English, J. and Card, R. (2009) *Police Law*, Chapter 22, Oxford: Oxford University Press.

<sup>4</sup> Elliot, V. (2008) 'Youths turn to aggressive dogs as the weapon of street status', *The Times*, 28 February 2008.

Printed and published by Sally Ramage ®, Copehale, Coppenhall, Stafford, ST18 9BW, UK. Registered as a Newspaper at the Post Office. © Sally Ramage ® 2009. All Rights Reserved. No part of this publication may be reproduced in any material form (including photocopying or storing it in any medium by electronic means and whether or not transiently or incidentally to some others use of this publication) without the written permission of the copyright holder except in accordance with the provisions of the Copyright, Design and Patents Act 1988 or under the terms of a licence issued by the Copyright Licensing Agency, Saffron House, 6-10 Kirby Street, London, England EC1N 8TS. Application for the copyright owner's written permission to reproduce any part of this publication should be addressed to the publisher. Warning: the doing of an unauthorised act in relation to a copyright work may result in both a civil claim for damages and criminal prosecution. ISSN 1758-8421.