



## **Sales organizations can be held responsible for the criminal behaviour of an agent**

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GRP Rainer Lawyers Tax Consultants, Cologne, Berlin, Bonn, Düsseldorf, Hamburg, Munich, Stuttgart, Frankfurt [www.grprainer.com](http://www.grprainer.com) elaborate: In the case on which the decision was based, a representative of a financial consulting firm liquidated a customer's investment funds and transferred the sales value to his private account by forging the customer's signature. In this case, the Court saw a close relationship between the professional activities of the representative and his criminal actions.

According to the Court, the advice provided by the representative established a contractual relationship within the meaning of § 311 Section 2 No. 3 BGB with duties under § 241 para 2 BGB, because the advice was accompanied by the authorization of said representative to continuously disclose to the customer information that is generally subject to banking secrecy.

In this case, this obligation had been violated by the representative. The Federal Supreme Court held that the defendant sales organization was liable in accordance with § 278 p.1 BGB because the representative had come in contact with the infringed legal assets of his customer precisely by means of his professional activity, which ultimately enabled him to sell the customer's capital investments.

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Anlage: Bild

