

**INSTITUTIONAL WILL - THE ORGANIZED CRIME REMEDY**

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- IRS – Criminal Investigations Division (1972 – 1983)
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Recent Publications: *The Infiltrator* (My Secret Life Inside the Dirty Banks Behind Pablo Escobar’s Medellin Cartel) published by Little, Brown and Company (2009) – ISBN 978-0-316-07753-8,  
“Follow the Dirty Money”, The NY Times – September 13, 2010  
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Currently provides investigative services, enhanced due diligence, anti-money laundering compliance consulting, and training to institutions and companies with a global presence, as well as sectors of the law enforcement, military, and intelligence communities.

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Throughout a 27 year career, conducted investigations of international drug trafficking, organized crime, and money laundering groups. In addition to using traditional investigative techniques, worked for 5 years in a long-term undercover capacity (deep cover) as a money launderer servicing the hierarchy of Colombian based drug cartels and acted as their conduit with corrupt financial institutions and businesses involved in the laundering of hundreds of millions in illicit proceeds.

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## **Abstract**

**Purpose** – This article examines the criminal conduct of convicted bankers and institutions for the purpose of identifying any measurable factor that can determine the degree of risk an organization faces from the threat of organized crime.

**Design / Methodology / Approach** – Primary research was conducted of the money laundering related acts of bankers and banks charged with criminal offenses. In addition, interviews were conducted of professionals with first-hand knowledge, directly involved in the events related to these prosecutions.

**Findings** - Although maintenance of a competent Anti-Money Laundering Compliance Program is required by law, the real measure of a financial institution's risk from organized crime is directly proportional to the degree with which the business line of an institution genuinely embraces, participates in, and benefits from the anti-money laundering protocols established by the institution's compliance function.

## **Introduction**

For years I was a participant in one of the most violent drug trafficking organizations in the world, The Medellin Cartel. I participated in more crime than many people who are spending the better part of their lives in jail. I lived that life, in an undercover capacity, with the prior approval of many governments, including those of the United States, United Kingdom, and France. Although hundreds of law enforcement officers around the world provided me with support behind the scenes, I primarily operated alone within the underworld without a gun, badge, or cover team.

I dealt directly with many of those who reported directly to Pablo Escobar and other Cartel leaders, including Santiago Uribe, a primary “consigliere” to Escobar.<sup>1</sup> Uribe was, in the eyes of the public, a professor at the University of Medellin, a practicing lawyer, and a respected adviser to legislators.<sup>2</sup> In reality, he was an architect of global money laundering schemes and a member of Escobar’s inner circle that facilitated the elimination of enemies, including Colombian judge Myrian Velez.<sup>3</sup> I was present when he proposed an assassination. My clients within the cartel included Gerardo Moncada<sup>4</sup> and Fernando Galeano, two individuals to whom Escobar entrusted a large portion of his cocaine empire.<sup>5</sup> My mentor within the cartel, Robert Alcaino<sup>6</sup>, the partner of Fabio Ochoa<sup>7</sup>, a man who sat on the Cartel board, vouched for my credibility and enabled me to operate within the cartel as not only a money launderer but also as an investor of cartel proceeds, placing funds in certificates of deposits, real estate investments, and legitimate businesses.<sup>8</sup> In addition, due to the fact that Alcaino shared details with me about the delivery of a large shipment of cocaine, he was arrested in New York City in possession of over a ton of cocaine. Subsequent to his arrest, due to instructions sent through his wife who visited him in jail, I assumed his responsibilities dealing with suppliers and distributors of cocaine.<sup>9</sup>

At the same time I worked within the Cartel I dealt in an undercover capacity directly with senior executives of what was then the 7<sup>th</sup> largest privately held bank in the world, The Bank of Credit & Commerce International (BCCI). BCCI had a presence in 72 countries and more than 15,000 employees. As was the case with those in the Cartel with whom I dealt, I recorded literally hundreds of conversations that occurred behind closed boardroom doors with an inner

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<sup>1</sup> *USA v. Santiago Uribe et al*, 8:91-cr-00239-JDW-9, (Middle District, FL), 1991

<sup>2</sup> Faber Molina Amariles, “The Justice Imbalance,” *El Colombiano*, (September 22, 1990)

<sup>3</sup> Mark Bowden, *Killing Pablo*, (New York, 2001), p.191

<sup>4</sup> *USA v. Gerardo Moncada et al*, 8:91-cr-00239-JDW-9, (Middle District, FL), 1991

<sup>5</sup> Bowden, p.118

<sup>6</sup> *USA v. Roberto Alcaino et al*, 1:88-cr-00685-CSH-1, (Southern District, NY), 1988

*USA v. Roberto Alcaino et al*, 88-328-cr-T-17(B), (Middle District, FL), 1988

<sup>7</sup> Bowden, p.22; pp.94-95

Robert Mazur, *The Infiltrator*, (New York, 2009), p.237

<sup>8</sup> Mazur, pp.119-120; p.195; p.202

<sup>9</sup> Mazur p.335

circle of BCCI executives, including those responsible for the bank's operation in Miami, Los Angeles, Panama, London, Paris, North Africa, The Bahamas, and other locations. Those recordings, my testimony, and records of transactions led to the indictment and conviction of many bank officers and the bank itself. It also revealed explicit details about the menu of money laundering techniques used by the bank's senior management.<sup>10</sup>

Subsequent to their conviction, I participated in months of debriefings of several of the convicted BCCI officers and was informed by them precisely how their bank developed money laundering techniques. It was their view that these techniques were adopted at BCCI after studying what they believed were the best money laundering methods used by executives in other institutions.<sup>11</sup>

In 1998, the United Nations International Drug Control Program (UNDCP) estimated that the illegal drug trade generated retail sales of about \$400 billion a year.<sup>12</sup> The global sale of drugs has dramatically increased since that time. From 1998 to 2008 sales of opiates increased by 34.5%, cocaine sales increased by 27%, and an 8.5% increase in cannabis sales has occurred.<sup>13</sup> During roughly the same timeframe, The U.S. Department of Justice Asset Forfeiture Fund Reports to Congress demonstrates that the annual forfeiture of assets tied to the illegal drug trade did not exceed an annual average of \$1 billion.<sup>14</sup> It is therefore reasonable to conclude that less than 1% of the revenue generated by the illegal drug trade is seized each year by the federal agencies of the U.S. government, despite the fact that they are supported by literally thousands of state and local law enforcement officers that participate in drug investigations spearheaded by U.S. federal agencies. The only logical assumption from these statistics is that organized criminal groups engaged in the distribution of large quantities of drugs have such sophisticated assistance in the laundering of hundreds of billions in drug proceeds each year

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<sup>10</sup> *USA v. The Bank of Credit and Commerce International*, 8:88-cr-00330-RAL-12, (Middle District, FL), 1988

<sup>11</sup> Mazur, pp.327-328

<sup>12</sup> UN General Assembly Special Session on World Drug Problems, (June 6 – 8, 1998)

<sup>13</sup> Report of The Global Commission on Drug Policy, (June 2011)

<sup>14</sup> DOJ Asset Forfeiture Fund website, <http://www.justice.gov/jmd/afp/02fundreport/index.htm>

that the location of the greatest majority of their revenue and assets is unknown to the law enforcement community.

This article examines the money laundering techniques employed by BCCI to launder drug proceeds and the representations made by its officers that these techniques are employed by many banks around the world engaged in cross-border transactions. The article further compares these assertions to the money laundering techniques described within recent indictments, as well as deferred prosecution agreements entered into by various banks during the past several years, to determine if the documented conduct of today's international banking community appears, as alleged by officers of "The World's Sleaziest Bank"<sup>15</sup> (BCCI), to involve some of the same money laundering techniques as those employed by BCCI. Lastly, this article attempts to address whether a review of the recent bank scandals reveal an element that can be measured to determine to what degree a well intended bank can potentially avert the cost, the loss of brand, and possibly more from the threat of organized crime?

### **Management of Illicit Funds**

Historically, significant criminal organizations that possess large amounts of illicit funds tend to enlist money laundering related services from individuals who can provide credible assurances that the true source of the funds will not be exposed. Leaders of criminal organizations do not attempt to trick people into playing a role in managing their dirty fortunes. I experienced this first hand when dealing with key players within the Medellin Cartel. While functioning in an undercover capacity as a money launderer, during recorded conversations, I was blatantly told by people of significance within the Cartel that the millions of dollars at a time I received were generated from the bulk sales of cocaine, and that any errors made handling this money could cost me my life<sup>16</sup>.

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<sup>15</sup> Jonathan Beaty and S.C. Gwynne, "The Dirtiest Bank of All", *Time Magazine*, (July 29, 1991), p.42

<sup>16</sup> Mazur, pp.59 – 60; p.141; p.187

At the same time, the officers at BCCI and other institutions that provided the critical assistance that resulted in the laundering of tens of millions in drug proceeds not only knew the source of the illicit funds, but repeatedly provided assurances that these transactions would be carried out with such sophistication that the source of the funds would not be detected. I was given guidance about the countries in which my accounts should be maintained to avoid detection by law enforcement, how customers at other banks got caught laundering money, how transactions would be structured to look legitimate, and many other assurances that those handling my accounts at the bank would run interference for me.<sup>17</sup> The promises extended to me as a private client of the bank are exemplified in a recorded statement with a Regional Manager and member of the bank's Board of Directors, "You will find that we will be much more understanding. If some of our clients have a problem, we will try our best to hide it from the authorities, to give you as much cover as we can. It is in our interest to assist you and your clients."<sup>18</sup>

### **Money Laundering Services at BCCI**

A dozen officers from BCCI and a Director of a global commodities brokerage firm, Capcom Financial Services, provided an array of money laundering products to me and many senior members of the Medellin Cartel, including Pablo Escobar.

- Accounts were opened in Panama, Luxembourg, Switzerland, Paris, London, the Bahamas and other countries around the world without the need for travel abroad. They hid my interest in these accounts, which were maintained in the names of off-shore shelf companies established in havens like Panama, Gibraltar and B.V.I. that offer bearer share ownership.<sup>19</sup>
- Offers were extended to move bulk cash across borders so it could be deposited to accounts maintained in the names of foreign corporations I secretly controlled.<sup>20</sup>

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<sup>17</sup> Mazur, p. 49; p.88; p.105; p.242-243; pp.272-276

<sup>18</sup> Mazur, p.177

<sup>19</sup> Mazur, p.66; p.204

<sup>20</sup> Mazur, p.123; p.214

- Loan accounts were created in the names of shelf companies secretly collateralized with deposits in accounts established in names of other off-shore corporations so the “loan proceeds” could be used without fear of authorities realizing we’d actually borrowed our own money.<sup>21</sup>
- Offers of outside service providers, like attorneys in Panama and Switzerland, were extended to facilitate the ease of acquiring off-shore corporations to front as the owners of funds placed in accounts I controlled.<sup>22</sup>
- Instructions to “Hold All Mail” were extended in writing to managers of foreign branches where accounts were established. The mail was put in safekeeping until I personally reviewed it abroad. These records were never sent to the U.S. in fear that authorities would intercept the mail and discover the accounts I secretly controlled.<sup>23</sup>
- In Panama, an account executive at the bank offered to manage a safe deposit box that both he and I could access so he could use the box to secure assets acquired on my behalf from third parties.
- Account executives were designated at branches to make visits to my clients in Colombia for the purpose of secretly reviewing records of account portfolios they discretely brought into the country, thus diminishing the chance that law enforcement might learn of the holdings they had with the bank.<sup>24</sup>
- Secret numbered accounts were established for me.<sup>25</sup>
- The bank agreed to collect and transport U.S. dollar checks in Colombia and other countries and transport them to Panama where they could be deposited in accounts I secretly controlled.<sup>26</sup>
- Offers were made to exchange U.S. currency for commodities, such as gold.<sup>27</sup>
- Information was intentionally stripped from wire transfers that would have otherwise accurately identified the true destination to which funds were sent.

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<sup>21</sup> Mazur, p.54; p.88; p.90; p.134; pp.176-177; p.243

<sup>22</sup> Mazur, p.164; p.169; p.170

<sup>23</sup> Mazur, p.171

<sup>24</sup> Mazur, p.180

<sup>25</sup> Mazur, p.91; p.201

<sup>26</sup> Mazur, p.201

<sup>27</sup> Mazur, p.216



## **BCCI Tactics Were Industry Common**

Throughout the time that I dealt in an undercover capacity with corrupt bankers, as well as during debriefings of these same officers after their convictions, they repeatedly claimed that their criminal acts were no different than the acts carried out by similarly placed account executives employed in most other institutions involved in cross-border transactions. They specifically named the banks that competed with them to solicit deposits of dirty money, naming major banks in the United States, United Kingdom, Brazil, Germany, Switzerland and other countries.<sup>28</sup> They provided details, which were later independently corroborated, about one Swiss bank that was so aggressive about profiting from the marketing of drug proceeds that they arranged for a private jet to periodically fly boxes of gold bars to a remote airstrip in Colombia. The plane was quickly met by heavily armed cartel workers that rapidly exchanged duffle bags filled with blocks of currency wrapped in rubber bands for the stash of gold – which was sold by the bank at a price that was 15% under market.<sup>29</sup>

BCCI senior officers explained that, at the direction of the bank's President, they analyzed the availability of deposits from "flight capital" in Colombia and assessed it to be no less than \$100 billion. They defined "flight capital" as underground money seeking secrecy and their analysis, a written report to the bank's President shared with board members, determined that the majority of "flight capital" available from accountholders in South America came from a mix of sources, including:

- Drug traffickers
- Money launderers
- Tax evaders
- Evaders of currency controls
- Evaders of Customs duties

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<sup>28</sup> Mazur, p.177; p.216; p.222; p.327

<sup>29</sup> Mazur, p.328

- Wealthy individuals with inflationary concerns

But their final analysis confirmed that the greatest portion of this money came from drug traffickers and money launderers.<sup>30</sup>

BCCI determined that, in order to compete with other banks vying for “flight capital” deposits from South American account holders, they needed to pattern their branch network in a similar fashion to other international institutions. Their Latin American Division would need to be established in Miami, and they would need a supporting branch system in key areas like Grand Cayman, Luxembourg, Nassau, Panama, Switzerland, and other countries with strict bank secrecy laws. To feed this system with deposits, they bought an existing Colombian bank with a broad branch network within Colombia. They armed the branches within their Latin American division with a hundred new account executives with experience marketing “flight capital”, many of whom were hired from other institutions.<sup>31</sup> A BCCI board member who formerly held a senior position with a major U.S. bank explained that the bank’s mission was to gain power in the financial community by gathering deposits from every corner of the underworld. They laundered money, bribed regulators, corrupted politicians, and financed arms dealers.<sup>32</sup>

### **Other Banks Using Techniques Similar to BCCI**

A series of public documents filed during the past several years detailing admitted criminal conduct at a dozen or more international banks related to the marketing of various forms of “flight capital” supports the hypothesis of senior BCCI officers that the illegal conduct they carried out is common in the international banking community.

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<sup>30</sup> Mazur, p.326

<sup>31</sup> Mazur, pp.326 - 328

<sup>32</sup> Mazur, pp.331 - 332

### Union Bank of Switzerland (UBS) - 2009:

Two account executives, including the Chairman of Global Wealth Management<sup>33</sup> and a subordinate account executive<sup>34</sup>, were indicted for their involvement in a systematic conspiracy to establish tens of thousands of accounts used by thousands of U.S. citizens to hide income and assets from the U.S. government. The bank was also charged, admitted guilt, and entered into a deferred prosecution that called for the payment of a \$780 million fine.<sup>35</sup> A review of the indictments of the two UBS officers and the Deferred Prosecution Agreement entered into by UBS confirms that officers of UBS used techniques to hide funds for clients that are identical or strikingly similar to those employed by officers of BCCI. Those techniques included:

- Providing clients with account forms enabling them to open accounts in foreign jurisdictions without traveling abroad.
- Referring clients to outside service providers that created off-shore companies used as fronts for the ownership of accounts secretly controlled by U.S. citizens.
- Opening numbered accounts to hide beneficial ownership.
- Having account executives travel and visit clients to surreptitiously review records of account portfolios, thus avoiding the mailing of account records across borders that might otherwise be subject to inspection by Customs authorities.
- Establishing standing orders to “Hold All Mail” at foreign branches relative to accounts controlled by clients on whose behalf those accounts were secretly established, thus avoiding the otherwise risky mailing of account records across borders.
- Having account executives maintain safe deposit boxes at foreign branches for clients in which assets and records were stored on behalf of those clients.
- Using Panama, Gibraltar, and B.V.I. entities to establish additional layers of apparent ownership in accounts secretly controlled by clients.
- Using a certificate of deposit or other equity account secretly owned by an accountholder as collateral for a loan, in a like amount, to a separate off-shore

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<sup>33</sup> *USA v. Bradley Birkenfeld*, 08-6009-CR-ZLOCH (Southern District, FL), 2008

<sup>34</sup> *USA v. Raoul Weil*, 08-60322-CR-COHN (Southern District, FL), 2008

<sup>35</sup> *USA v UBS AG*, 09-60033-CR-COHN (Southern District, FL), 2009

corporation. (NOTE: This technique, often referred to as a “back to back loan”, is employed to create the appearance that an asset secretly owned by the accountholder was purchased by an unrelated off-shore entity with loan proceeds.)

Union Bank of California, N.A – 2007:

The Union Bank of California, N.A. (UBC) was charged with the criminal offense of failing to maintain an effective Anti-Money Laundering Compliance Program. The bank admitted guilt and entered into a deferred prosecution that called for the payment of a \$21.6 million fine.<sup>36</sup> The bank admitted that their conduct allowed certain customers to establish accounts in the names of Mexican currency exchange houses (casas de cambio) and launder no less than \$21.6 million dollars in drug proceeds. UBC did this despite the fact that, for years prior to these events, U.S. law enforcement and regulatory agencies put the bank and the entire banking industry on notice that Mexican casas de cambio were increasingly being used by drug trafficking organizations to launder drug proceeds.

The transactions conducted by UBC for Mexican casas de cambio included:

- Accepting large cash deposits for a casa de cambio that had no known business to support such deposits.
- Accepting large volumes of traveler’s checks and third party checks on behalf of businesses that had no retail business.
- Accepting large volumes of traveler’s checks and third party checks that had many common earmarks of instruments purchased with drug proceeds, including many with sequential numbering (i.e. 30 sequentially numbered \$1,000 travelers checks), many with markings consistent with their sale through black market money sources, many with improper endorsements, etc.
- Providing pouch services that enabled the cross-border transportation of large volumes of third party checks to the United States that were thereafter deposited. A substantial

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<sup>36</sup> *USA v. Union Bank of California, N.A.*, 07CR2566-W, (Southern District, CA) 2007

portion of these checks bore various red-flags consistent with signs that the checks were the product of money laundering activity.

UBC placed significant responsibility on its business line “relationship managers” to justify the bank’s maintaining account relationships with these businesses, despite the fact that those relationship managers had vested financial interests in the bank maintaining those account relationships. According to U.S. officials, UBC turned “their legitimate business into a currency stash house used by international drug traffickers to line their pockets, fuel more trafficking, and corrupt government officials.....”<sup>37</sup>

#### Wachovia Bank, N.A. – 2010:

In September of 2005, after it was known that the Union Bank of California (UBC) was facing serious charges as a result of their correspondent banking relationships with Mexican casas de cambio, Wachovia Bank, N.A. purchased that business from UBC and hired UBC account executives who managed relationships with casas de cambio. At the time of this acquisition, Wachovia announced “great respect for UBC’s team.”<sup>38</sup> Also, Wachovia was well aware that Mexican casas de cambio posed great risk for exposure to drug money laundering, not only because of their knowledge of UBC’s problems and notices they received from government agencies, but also because Wachovia maintained a 20% ownership interest in Vector Divisas Casa de Cambio S.A. de C. V., a Mexican casa de cambio located in the city of Monterrey.<sup>39</sup>

In 2010, five years after Wachovia acquired UBC’s correspondent banking business with Mexican casas de cambio, Wachovia was charged with the criminal offense of intentionally failing to maintain an effective anti-money laundering compliance program relative to their relationships with Mexican casas de cambio. The bank admitted guilt, and entered into a deferred prosecution that called for the payment of \$160 million in fines. Remarkably, the

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<sup>37</sup> Department of Justice Press Release – Union Bank of California, N.A., (Sept 17, 2007)

<sup>38</sup> Wachovia Press Release, (September 22, 2005)

<sup>39</sup> Wachovia Corp SEC Form 10-K, List of Subsidiaries as of December 31, 2005, p.22

deferred prosecution describes the nature of the business that Wachovia did with Mexican casas de cambios during the years 2004 through 2007.<sup>40</sup> During that timeframe, the bank:

- Failed to monitor more than \$420 billion in financial transactions with Mexican casas de cambio.
- Agreed that no less than \$110 million in drug proceeds were laundered through the bank.
- Agreed that, with funds moved through the bank from casas de cambio, drug trafficking organizations purchased aircraft from which more than 20,000 kilograms of cocaine was seized.
- Accepted nearly \$14 billion in U.S. currency from casas de cambio and other correspondent bank customers and arranged the physical transportation of that cash to the U.S., where it was deposited.
- Failed to monitor over \$40 billion in monetary instruments, many of which were received in a suspicious form, such as high volumes of sequentially numbered traveler's checks and money orders, high volumes of monetary instruments with illegible signatures, high volumes of checks with no signatures, etc. A substantial portion of these checks were transported into the U.S. either through their physical transportation in pouches by courier services, or electronically from places outside the U.S. to bank locations within the U.S.

#### BANKATLANTIC – 2006:

BankAtlantic was charged with the criminal offense of willfully failing to maintain an effective Anti-Money Laundering Compliance Program. The bank admitted guilt and entered into a deferred prosecution that called for the payment of a \$10 million forfeiture. The bank conducted more than \$50 million in suspicious transactions, including \$10 million confirmed to have been generated from the sale of illegal drugs.<sup>41</sup>

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<sup>40</sup> *USA v. Wachovia Bank, N.A.*, 10-20165-CR-LENARD, (Southern District, FL), 2010

<sup>41</sup> Department of Justice Press Release, BankAtlantic, (April 26, 2006)

In this instance, the manager of the bank's International Private Banking Division, a person with extensive training in anti-money laundering and bank secrecy act related issues, concealed facts to enable accountholders to maintain accounts to operate unofficial / unlicensed money service businesses that profited from the laundering of drug proceeds owned by traffickers based in Colombia. The patterns of transactions at BankAtlantic that led to the government's filing of criminal charges were very similar to those that occurred at Wachovia and UBC, as noted above, although the beneficial owners and flow of funds were from Colombia, rather than Mexico.

In this instance, BankAtlantic's private client division manager opened accounts for accountholders in the names of off-shore corporations in jurisdictions that offered bearer shares, further shielding the identity of the activities of the account holders. Furthermore, BankAtlantic, as a result of having acquired Mega Bank at or near the same time these accounts were established, had prior exposure to this very type of criminal conduct. After purchasing Mega Bank in the late 1990's, it was discovered that Mega Bank had maintained hundreds of accounts used by Colombian money launderers to deposit drug proceeds. Officers of Mega Bank were prosecuted for carrying out this conduct. Remarkably, many of the same techniques that were used by Mega Bank officers were the same techniques used at BankAtlantic during 1997 through 2004.<sup>42</sup>

#### AMERICAN EXPRESS BANK INTERNATIONAL – 2007:

American Express Bank International (AEBI) was charged with the criminal offense of willfully failing to maintain an effective Anti-Money Laundering Compliance Program. The bank admitted guilt and entered into a deferred prosecution that called for the payment of a \$55 million forfeiture.<sup>43</sup>

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<sup>42</sup> *USA v. BankAtlantic*, 06-60126-CR-COHN, (Southern District, FL), 2006

<sup>43</sup> *USA v. American Express Bank International*, 07-20602-CR-ZLOCH/SNOW, (Southern District, FL), 2007

During 2002 through 2004, AEIB personnel knowingly assisted Colombian nationals to establish accounts at the bank in the names of offshore bearer share corporations used to conduct black market money exchange transactions that, at least in part, were carried out to benefit drug traffickers. Accounts were used at AEIB to launder more than \$55 million in drug proceeds. The black market money exchange transactions were flagrant and systematic. For example, a Colombian national controlled an offshore (B.V.I.) bearer share corporation that held title to an account. That entity was controlled by three other bearer share offshore entities that gave the Colombian national power-of-attorney to control the bank accounts of the original offshore bearer corporation. The account was used to conduct millions of dollars in black market money exchange transactions.

#### OCEAN BANK – 2011:

Ocean Bank was charged with the criminal offense of willfully failing to maintain an effective Anti-Money Laundering Compliance Program. The bank admitted guilt and entered into a deferred prosecution that called for the payment of an \$11 million forfeiture.<sup>44</sup>

During 2001 through 2010, as a result of a series of serious and systemic violations that facilitated the laundering of drug proceeds, the bank ignored:

- Large cash deposits that were unsupported by the purported customer's business model
- Structured cash deposits in amounts of less than \$10,000 conducted to avoid the filing of Currency Transaction Reports (CTRs)
- Deposits of thousands of money orders and travelers checks, many of which were sequentially numbered
- Hundreds of incoming wire transfers originating from casas de cambio in Mexico
- Same day incoming and outgoing wire transfers in large round dollar amounts.

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<sup>44</sup> *USA v. Ocean Bank*, 1:11-cr-20553-JEM, (Southern District, FL), 2011



#### BARCLAYS BANK PLC – 2010:

Barclays Bank PLC was charged with the criminal offense of willfully violating and attempting to violate the Trading with the Enemy Act and the International Emergency Economic Powers Act. The bank admitted guilt and entered into a deferred prosecution that called for the payment of \$298 million forfeiture.<sup>45</sup>

From 1990 through 2006 the employees of the bank knowingly and willfully moved hundreds of millions of dollars through the U.S. financial system on behalf of banks from Iran, Libya, Sudan, Burma, and Cuba, and persons listed as parties or jurisdictions sanctioned by agencies of the U.S. in violation of economic sanctions. To hide these illegal transactions, employees of Barclays Bank intentionally stripped \$500 million in wire transfers of information that lawfully should have been included on those payment transfers and would have otherwise resulted in U.S. authorities blocking those payments. In order to secretly make these transfers, bank employees also illegally routed some transfers to sanctioned jurisdictions through an account designated for internal bank transfers.

#### CREDIT SUISSE AG - 2009:

Credit Suisse AG was charged with the criminal offense of willfully violating and attempting to violate the International Emergency Economic Powers Act. The bank admitted guilt and entered into a deferred prosecution that called for the payment of \$536 million forfeiture.<sup>46</sup>

From 1990 through 2006 the employees of the bank knowingly and willfully moved hundreds of millions of dollars through the U.S. financial system on behalf of entities subject to U.S. sanctions, including Iran. To hide these illegal transactions, employees of Credit Suisse intentionally stripped \$536 million in wire transfers of information that lawfully should have been included on those payment transfers and would have otherwise resulted in U.S. authorities blocking those payments. In addition, employees of Credit Suisse and sanctioned

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<sup>45</sup> *USA v. Barclays Bank PLC*, 1:10-cr-00218-EGS, (District of Columbia), 2010

<sup>46</sup> *USA v. Credit Suisse AG*, 1:09-cr-00352-RCL, (District of Columbia), 2009

parties collaborated to devise various coded entries on these wires to alert those who processed them of the beneficial owners of funds and intended recipients.

ABN AMRO BANK N.V. – 2010:

ABN Amro Bank N.V. was charged with the criminal offense of willfully violating and attempting to violate the International Emergency Economic Powers Act, the Trading with the Enemy Act, and Failure to Maintain an Adequate Anti-Money Laundering Program. The bank admitted guilt and entered into a deferred prosecution that called for the payment of \$500 million forfeiture.<sup>47</sup>

From 1995 through 2005 the employees of the bank knowingly and willfully moved hundreds of millions of dollars through the U.S. financial system on behalf of entities subject to U.S. sanctions, primarily Iran, Libya, Sudan, and Cuba. To hide these illegal transactions, employees of ABN Amro Bank intentionally stripped wire transfers of information that lawfully should have been included on those payment transfers and would have otherwise resulted in U.S. authorities blocking those payments. In addition, employees of ABN Amro Bank and sanctioned parties collaborated to devise various coded entries on these wires to alert those who processed them of the beneficial owners of funds and intended recipients.

In addition, during the years 1998 through 2005, the New York office of ABN Amro Bank failed to maintain an adequate anti-money laundering compliance program. As a result, more than \$3.2 billion dollars involving shell companies and high risk transactions with foreign financial institutions flowed through ABN Amro's New York branch.

LLOYDS TSB BANK PLC – 2009:

Lloyds TSB Bank PLC (Lloyds) was charged with the criminal offense of willfully violating and attempting to violate the International Emergency Economic Powers Act. The bank admitted

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<sup>47</sup> *USA v. ABN Amro Bank N.A.*, 1:10-cr-00124-CKK, (District of Columbia), 2010

guilt and entered into a deferred prosecution that called for the payment of \$350 million forfeiture.<sup>48</sup>

From 1990 through 2007 Lloyds systematically violated laws by falsifying hundreds of millions of dollars worth of outgoing U.S. dollar payment messages that involved countries, banks, or persons listed as sanctioned parties by the United States. Employees of the bank stripped data from payment messages in order to avoid detection of their transfers of funds to sanctioned parties in Iran, Sudan, and Libya. Employees of Lloyds also falsified trade finance transaction documents, including import and export letters of credit. From 2002 through 2007, Lloyds engaged in approximately 1500 trade finance transactions involving Iranian banks with an aggregate value of \$300 million. Similar trade finance transaction documents were falsified relative to hundreds of transactions involving Sudanese banks.

#### DEUTSCHE BANK AG – 2010:

Deutsche Bank AG (Deutsche Bank) admitted to conspiracy to commit tax evasion and defrauding the U.S. by creating \$29.3 billion in bogus tax benefits that led to the evasion of \$5.9 billion in U.S. income taxes. This conspiracy, which occurred from 1996 to 2002, was conducted for the benefit of 2,100 U.S. citizens. To settle this matter with the U.S. government, Deutsche Bank forfeited \$553.6 million<sup>49</sup> and entered into a Deferred Prosecution Agreement.<sup>50</sup> To carry out this massive tax evasion scheme, executives of the bank conspired with senior members of the national accounting firm of KPMG and attorneys in two law firms.<sup>51</sup>

#### OTHER:

Many other banks have entered into agreements with governments and paid substantial monetary fines for failing to maintain anti-money laundering compliance programs, conducting transactions with sanctioned parties, or assisting clients to evade taxes. The cases noted above

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<sup>48</sup> *USA v. Lloyds TSB Bank PLC*, 1:09-cr-00007-ESH, (District of Columbia), 2009

<sup>49</sup> Department of Justice Letter by U.S. Attorney Preet Bharara (Southern District, NY), (December 21, 2010)

<sup>50</sup> Department of Justice Press Release – Deutsche Bank AG, (December 21, 2010)

<sup>51</sup> Chad Bray, “Deutsche Bank Settles Tax Fraud Case”, *The Wall Street Journal*, (December 22, 2010)

are limited to those that involved an admission of criminal guilt. Examples of additional institutions that have paid monetary penalties for these offenses include:

- Banc of America Investment Services, Inc. – Fined \$3 million in 2007 for failing to maintain an adequate anti-money laundering compliance program
- Scotia Bank of Scotland – Fined \$8.9 million in 2010 for failing to maintain an adequate anti-money laundering compliance program
- J. P. Morgan Chase & Co. – Fined \$88.3 million in 2011 for violating U.S. sanctions by making payments to parties in Iran, Cuba and other nations.

It should be noted that there are also ongoing criminal investigations of various financial institutions for allegedly committing similar criminal offenses, including HSBC Bank USA, N.A., a subsidiary of HSBC Holdings PLC.<sup>52</sup> A federal grand jury in New York is investigating issues relative to HSBC's alleged purchase of an estimated \$9 billion per year of bulk U.S. currency from sources in Mexico.

## **Conclusion**

The contention of BCCI officers that their criminal conduct is carried out by personnel within the business line at many international banks is supported by the considerable number of bank prosecutions that have been brought in the past several years.

## **RECOMMENDED REMEDY**

The interests of significant criminal organizations to launder funds most often finds its way to that segment of the banking/business community that allows business line interests to override

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<sup>52</sup> HSBC Holdings PLC, SEC Form 10-Q, (July 31, 2011)

compliance risk assessment. One cannot accurately measure institutional compliance strictly by evaluating the acts of individuals employed within a bank's compliance department. An institution, such as Wachovia, with a professional compliance department that devoted substantial resources and energy to "find" suspicious events and "chase down" otherwise reportable transactions is, despite those efforts, still exposed to substantial risk of a crisis resulting from transactions related to serious criminal conduct.

To professionally manage this risk, an institution must establish visible financial and career enhancing incentives for business line personnel that contribute to the compliance mission. The business line must witness employee rewards that confirm an institutional will that promotes risk management over profits. An institution cannot afford to have two separate lines of thinking – one of risk management within compliance and a second of profits within the business line.

Efforts should be made to attempt to measure the "business line buy-in" to the compliance mission by reviewing the compliance related contributions of business line personnel. Factors such as the level of enhanced due diligence reporting conducted in good faith by account relationship managers and the instances of compliance successes precipitated by business line referrals are two indicators of an institution's "business line buy-in" to the importance of compliance. To promote these two factors, management must identify visible financial rewards for those business line personnel that provide the most genuine assistance to the compliance mission.

Measuring the "business line buy-in" and motivating the business line to contribute to the compliance mission distinguishes whether an institution's compliance program is likely to avert the type of scandal that many institutions have suffered during the past several years. The primary factor that each of these institutions exhibited was a business line that did not contribute to what appeared to be an independent compliance initiative by compliance resources.

## BIBLIOGRAPHY

- Amariles, Frank Molina. "The Justice Imbalance," *El Colombiano*, (September 22, 1990).
- Beaty, Jonathan and Gwynne, S.C. "The Dirtiest Bank of All," *Time Magazine* (July 29, 1992).
- Bowden, Mark. Killing Pablo. New York: Atlantic Monthly Press, 2001.
- Bray, Chad. "Deutsche Bank Settles Tax Fraud Case", *The Wall Street Journal*, (December 22, 2010).
- Department of Justice Letter by U.S. Attorney Preet Bharara (Southern District, NY), (December 21, 2010).
- Department of Justice Press Release – BankAtlantic, (April 26, 2006).
- Department of Justice Press Release – Deutsche Bank AG, (December 21, 2010).
- Department of Justice Press Release – Union Bank of California, N.A., (September 17, 2007).
- DOJ Asset Forfeiture Fund: <http://www.justice.gov/jmd/afp/02fundreport/index.htm>
- HSBC Holdings PLC, SEC Form 10-Q, (July 31, 2011).
- Mazur, Robert. The infiltrator. New York: Little, Brown and Co., 2009.
- Report of the Global Commission on Drug Policy (June 2011).
- UN General Assembly Special Session on World Drug Problems, (June 6 – 8, 1998).
- USA v. ABN Amro Bank N.A.*, 1:10-cr-00124-CKK, (District of Columbia), 2010.
- USA v. Roberto Alcaino et al*, 1:88-cr-00685-CSH-1, (Southern District, FL), 1988.
- USA v. Roberto Alcaino et al*, 88-328-cr-T-17 (B), (Middle District, FL), 1988.
- USA v. American Express Bank International*, 07-20602-CR-ZLOCH/SNOW, (Southern District, FL), 2007.
- USA v. BankAtlantic*, 06-60126-CR-COHN, (Southern District, FL), 2006.
- USA v. The Bank of Credit and Commerce International*, 8:88-cr-00330-RAL-12, (Middle District, FL), 1988.
- USA v. Barclays Bank PLC*, 1:10-cr-00218-EGS, (District of Columbia), 2010.
- USA v. Bradley Birkenfeld*, 08-6009-CR-ZLOCH (Southern District, FL), 2008.

*USA v. Credit Suisse AG*, 1:09-cr-00352-RCL, (District of Columbia), 2009.

*USA v. Lloyds TSB Bank PLC*, 1:09-cr-00007-ESH, (District of Columbia), 2009.

*USA v. Gerado Moncada et al*, 8:91-cr-00239-JDW-9, (Middle District, FL), 1991.

*USA v. Ocean Bank*, 1:11-cr-20553-JEM, (Southern District, FL), 2011.

*USA v UBS AG*, 09-60033-CR-COHN (Southern District, FL), 2009.

*USA v. Union Bank of California, N.A.*, 07CR2566-W, (Southern District, CA), 2007.

*USA v. Santiago Uribe et al*, 8:91-cr-00239-JDW-9, (Middle District, FL) 1991.

*USA v. Wachovia Bank, N.A.*, 10-20165-CR-LENARD, (Southern District, FL), 2010.

Wachovia Corp SEC Form 10-K, List of Subsidiaries as of December 31, 2005, p.22.

Wachovia Press Release, (September 22, 2005).

*USA v. Raoul Weil*, 08-60322-CR-COHN (Southern District, FL), 2008.