

Session 206

Money Laundering

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Before the

Senate Caucus on International Narcotics Control
United States Senate

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Mr. Chairman and Members of the Caucus, I am very honored to be here this morning to discuss the workings of the Colombian Black Market Peso Exchange System – perhaps the single largest avenue for the laundering of proceeds of narcotics trafficking in the United States. I have been a federal law enforcement officer for over 20 years. I have spent the last eight years involved in investigations of the Colombian black market peso exchange.

This system involves the use of the Colombian Black Market Peso Exchange as a mechanism to launder substantial amounts of currency from U.S. narcotics sales. Estimates from law enforcement and the Colombian government indicate that this system may be responsible for laundering approximately \$5 billion in wholesale Colombian narcotics proceeds each year. This laundering system infects the financing of trade goods to Colombia, such as cigarettes, liquor, appliances, consumer electronics, auto parts, textiles and footwear.

In my testimony, I will address the basic concept driving the Colombian Black Market Peso Exchange System and explain how the Colombian narco-traffickers are manipulating it to launder their U.S. drug proceeds.

Origin of the System

The Colombian Black Market Peso Exchange did not arise from narcotics trafficking, but was developed in the 1950s as a response to certain economic policies put in place by the Colombian government. The implementation of these policies resulted in high tariffs on goods imported into Colombia. In addition, authorities placed restrictions on the exchange or ownership of U.S. dollars.

U.S. dollars have long been the primary medium of foreign trade in the Western Hemisphere. As a consequence, the Colombian importer must obtain a supply of U.S. dollars to pay for the goods he wants to import. The government of Colombia restricted

the supply of US dollars as a means to enforce compliance with their trade policies. We know that in response many Colombians, ignoring the trade restrictions, turned to the black market. Dollar/peso brokers grew up to meet the demand. These "brokers" operated what was in effect a parallel currency exchange system, taking in pesos from Colombian importers and making dollars available to those importers. The Colombian dollar/peso broker offered the Colombian importers the option to purchase dollars discreetly, without the government's knowledge, thus avoiding regulatory scrutiny. The Colombian importers smuggled the trade goods into Colombia, evading the high Colombian tariffs and taxes

Historically, the system's rate of exchange was established by the availability of U.S. dollars for sale on the black market. The more readily available the dollars were in the U.S., the lower the exchange rate. The scarcer these dollars were the higher the exchange rate. In maintaining this trade of U.S. dollars as a commodity, the dollar/peso broker replenished his U.S. account with new dollars, purchased from Colombian exporters who sold goods such as coffee, oil, flowers or emeralds in the United States. The dollar/peso broker deposited these dollars into his U.S. account, paying the exporter with pesos in Colombia.

It should be noted that until recently, the black market exchange rates had been fairly consistent with the rate for U.S. dollars set by the Colombian central bank. Although, the dollar/peso broker was paying a slight premium for the dollars, he would pass the extra cost on to his customers along with his fee. This extra cost for the dollars was acceptable to the Colombian importer because he was thus evading the tariffs and taxes on the goods sold in Colombia. This system operated along these lines until a new source of U.S. dollars became available to the peso/dollar brokers. That source was narco-dollars.

The Colombian narcotics trafficker transports drugs to the U.S. where they are sold for U.S. currency. The U.S. currency that is passed up from street sales to pay the wholesaler is amassed in secret locations called "stash houses." These stash houses are usually located in residential areas of the main drug distribution centers, such as Manhattan, Miami, Houston, Chicago, and Los Angeles. At any given time, there may be several million dollars belonging to one Colombian narcotics trafficker in these stash houses.

In the late 1970's, when Colombian cocaine trafficking began in earnest, the currency was deposited in bulk in US banks. As federal law enforcement became aware of this problem, they exercised their authority under the Bank Secrecy Act (BSA) to eliminate anonymous large-scale currency transactions. As Congress adopted other anti-money laundering laws, transactions involving criminal proceeds became even more difficult for the narcotics trafficker.

The Colombian narcotics trafficker has a constant need to repatriate a large part of his drug sale proceeds to Colombia in the form of Colombian pesos. He needs these pesos to operate his illicit business, attempt to avoid government intervention in his activities, and maintain his wealthy lifestyle. It is important to note that the narcotics trafficker's situation is the opposite of the Colombian dollar/peso broker, since the trafficker has dollars in the U.S. and needs pesos in Colombia; the peso broker has pesos in Colombia and needs dollars in the U.S.

The trafficker sells the dollars to the broker. The broker pays for the dollars with pesos in Colombia. The trafficker pays the broker well. We know that as an incentive for doing business together, the narcotics trafficker sells the currency to the dollar/peso broker at a substantial discount, often amounting to as much as 30%. As a result of this discount and the relatively unlimited supply of drug dollars, brokers have no need to look toward legitimate sources of funds. The effect is that all BMPE dollars now originate as narcotics dollars.

As in most businesses, the broker passes on some of this discount to his customers. As a result, the dollar/peso broker is now able to offer his clients, notably Colombian importers, not only a discrete source of US dollars, but at a rate significantly less than the rate offered by the Colombian central bank.

The dollar/peso broker uses two parallel bank accounts to facilitate the sale of dollars to the Colombian importer. The first was a peso account in Colombia. The second was an U.S. dollar account in the United States. The dollar/peso broker takes an order for U.S. dollars and receives payment in pesos in Colombia. The dollars are not delivered to the Colombian purchaser, but instead at the time of order, the purchaser instructs the dollar/peso broker to deliver the U.S. dollars to the trade goods supplier to whom he owes payment. These suppliers are often in the U.S., although they may also be in Panama or other ports of trade in Asia or Europe. The trade goods are shipped to Colombia and smuggled into the country to avoid tariffs and taxes as noted above

Mr. Chairman, what I have just outlined is the foundation of the Black Market Peso Exchange system. It is also important to note that once the trafficker has sold the dollars, located in the United States and has received his pesos in accounts in Colombia, he has effectively laundered those dollars. It is now the broker who has assumed the risk of placing the dollars into U.S. financial institutions, business accounts or smuggling them into Mexico. The trafficker's connection to this scheme increasingly becomes more and more difficult to make. The Colombian importer has managed to buy U.S. dollars at a very competitive rate with which to pay for his goods. Thus, all the parties involved reap a substantial financial benefit from this relationship that facilitates narcotics trafficking and infuses international trade with narco-dollars.

How the money is placed in the System

There is only one flaw in this system. The narco-dollars are almost as much of a problem for the dollar/peso broker as they are for the trafficker from whom they were purchased. That is, the currency has to be placed into the financial system, and its size and composition attracts suspicion almost automatically, unless it is structured down into packets that fall below the radar screen. The most common method of placement is by structuring transactions below the BSA reporting threshold of \$10,000. In actuality, most banks have a much lower threshold for scrutiny of currency transactions. The structured deposits are usually reduced to be less than the bank's voluntary compliance threshold, which is usually around \$3,000. Operatives of the broker place the currency in bank accounts opened in nominee names but controlled by the peso broker.

Another common method of placement is to add the purchased narcotics currency to the regular deposit of a business that normally deposits large amounts of currency. The business most frequently used in this regard are money transmitters who offer their services to Colombians working in the US who wish to transmit funds in small increments to Colombia. Once the proceeds are in their accounts the dollar/peso broker instructs them to transfer these funds either directly to the trade goods supplier or to a holding account controlled by the broker. These businesses must of course consciously aid and abet the trafficker in the process. Often these Colombian money transmitter businesses are so overtaken by this process, that they have no legitimate clients and falsify all their internal records to disguise the actual laundering purpose of their activities.

In some instances, placement occurs by smuggling the currency into Mexico where the money has primarily been deposited in Mexican banks. Law enforcement sources have indicated a shift following Casablanca. What we are seeing now is a depositing of the smuggled US dollars into foreign banks operating in Mexico. In either case these banks have correspondent relationships with US banks. The dollars are placed back in the US system via those bank's foreign correspondent accounts.

A final method of placement occurs when some currency bypasses the banks and goes directly to the supplier of trade goods. This currency is delivered to this supplier on behalf of the Colombian smuggler's account. Most US suppliers resist this type of transaction, but recent intelligence indicates this particular scenario is on the increase.

The Supplier

Mr. Chairman, I have already indicated why this system arose, its mechanics and how all of the major players benefit. I would like to now address the role of businesses in supplying the trade goods. The dollar/peso broker sells dollars to otherwise legitimate Colombian importers who plan to smuggle their purchases into Colombia in order to evade Colombian taxes and tariffs.

As I stated earlier, once the Colombian importer/smuggler pays the dollar/peso broker for the dollars, the broker then transfers those dollars, on behalf of the smuggler, to the supplier of trade goods. Generally, these suppliers are wholesale distributors. However, in certain instances the transfer may be made directly to the manufacturer of the goods in question. These transactions may be in the form of a wire transfer, a check or a bank draft. The important point here is that none of these instruments are drawn on the account of the Colombian importer. It is also important to state that the mere receipt of these funds, without more, is not definitive of complicity in or even knowledge of the money laundering aspect of the transaction.

Based on the analysis of data received from undercover operations and of seizure data provided by Colombian officials, we know that the suppliers are not unique to the United States. The suppliers also include multi-national manufacturers or distributors from Asia, primarily Japan and Korea, as well as Europe. These foreign suppliers are most often based in the U.S. or Panama.

Contraband Market

As I have earlier stated, the cycle is complete once the trade goods are shipped from the supplier and smuggled into Colombia. In Colombia these trade goods make up what we call the "contraband" market. Information collected by law enforcement currently indicates that the market is comprised of cigarettes, liquor, consumer electronics, household appliances, auto parts, textiles and footwear.

Once in Colombia these goods are often sold by individuals or small businesses called "contrabandistas." The businesses are often located in small strip mall type outlets call "San Andrecetos." The Colombian government estimates there are over 50,000 of these individual outlets. Since they do not have to include the duties and tariffs in their cost and they usually do not charge the Colombian sales tax, they are able to offer the goods at a substantially reduced price. In fact legitimate Colombian retailers complain that they can often purchase their products cheaper in the San Andrecetos that they can buy then wholesale in the legitimate market place. They find themselves competing with a market subsidized by drug money courtesy of the Colombian narcotics traffickers.

The pesos generated by these retail sales complete this laundering cycle. The Colombian businessman then returns to the dollar/peso broker to pay for more narco-dollars with those pesos.

Conclusion

Mr. Chairman, I want to reiterate what an honor it is for me to appear before this Caucus. As a law enforcement agent for over twenty years, I am personally acquainted with the immense damage caused to our young people in particular, but our country in general by narco-traffickers. I am also very familiar with the enormous arsenal that these criminals have at their disposal. They are hiding in the free enterprise system, designed to assure our prosperity. But, we are approaching them and their organizations in new ways, better armed by technology, in a more coordinated fashion and in closer cooperation with our colleagues in other law enforcement agencies here in the United States as well as abroad.

I have had the privilege of being a member of the interagency Colombia Black Market Peso Exchange working group put together by Undersecretary Johnson, described earlier this morning. I have seen traditional methods, not discarded but enhanced by new thinking being taken by law enforcement under the leadership of Under Secretary Johnson to combat this complex and critically important money laundering system. Under Secretary Johnson has endorsed and put in place an action plan designed to impact the system as a whole rather than the individuals who operate within it.

Thank You Mr. Chairman for this opportunity to address the Caucus on this serious money-laundering problem.



Countries



Players



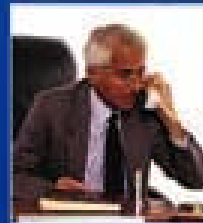
Drug Traffickers



Dollar/Peso Broker



Smuggler



US Banker



US Supplier

Commodities



Drugs



Dollars



Pesos



Trade Goods







Dollars

United States

Colombia

**Dollar/Peso
Broker**



Peso



United States

Smuggler

Colombia

Dollar/Peso
Broker



Peso

Peso



Bank

Placement



Dollars

United States

Smuggler

Colombia



Dollar/Peso
Broker

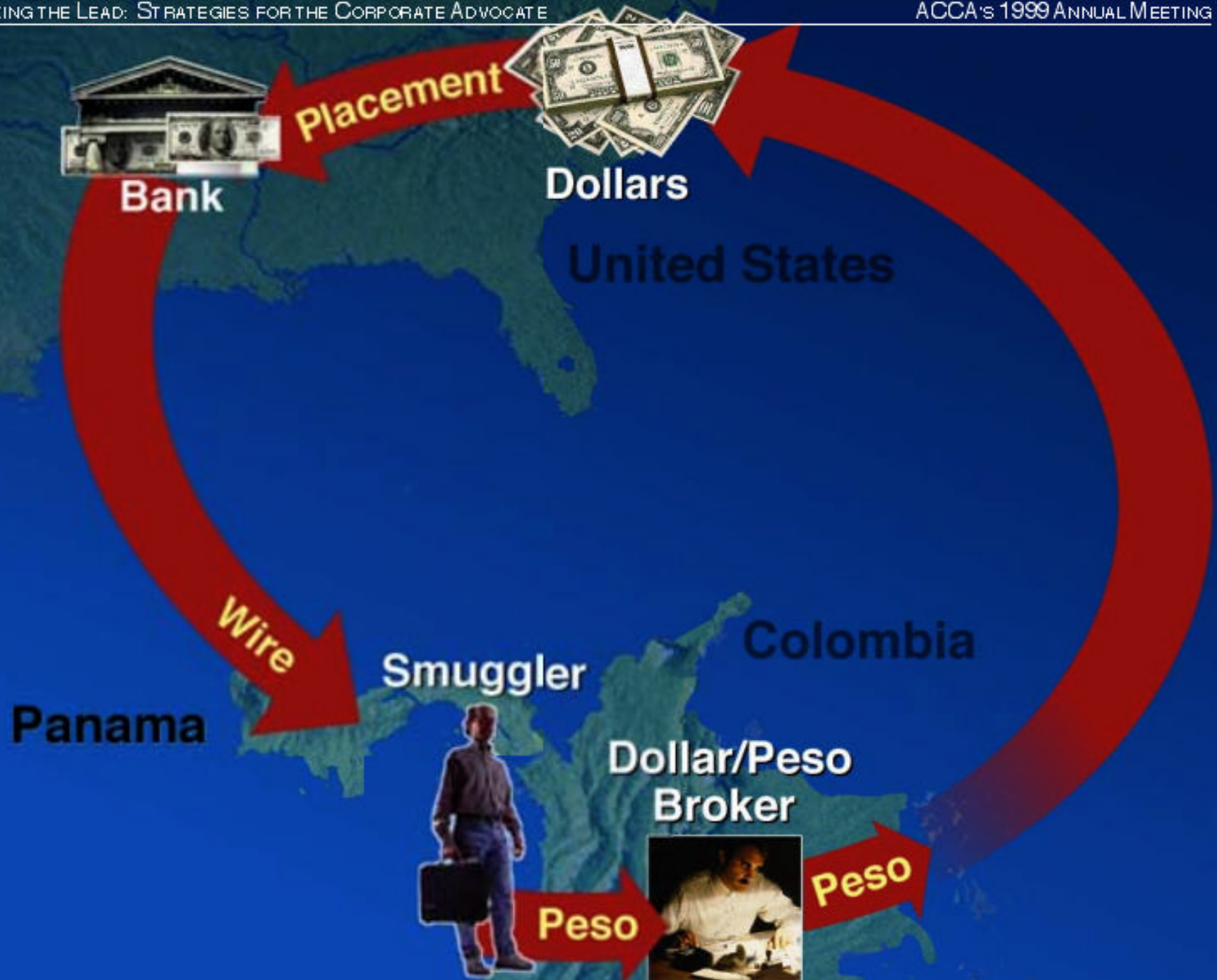


Peso

Peso











Countries that have received BMPE dollars



SUGGESTED OUTLINE OF THE ELEMENTS OF AN EFFECTIVE ANTI-MONEY LAUNDERING COMPLIANCE PROGRAM

**AMY G. RUDNICK
LINDA NOONAN**

1. Written Policy Statement
 - Defines the problem
 - Identifies the applicable laws and regulations
 - Affirms the commitment of senior management
 - Outlines the compliance program
 - Designates a Compliance Officer
 - Outlines a disciplinary policy
2. Explanation of the Applicable Laws and Regulations
 - Cash reporting and/or recordkeeping requirements
 - Money laundering statutes
 - Suspicious transaction reporting
3. Procedures and Internal Controls for Ensuring Compliance with Policies and Cash Reporting Requirements
 - Procedures for handling or restricting cash and other types of payments
 - Procedures for identifying reportable and recordable transactions, including, if feasible, computer and other monitoring systems
 - Procedures for preparing, filing and maintaining currency transaction reports and other records
4. Know Your Customer Policies, Procedures and Internal Controls for Preventing and Detecting Possible Money Laundering and Other Suspicious Activity
 - Customer identification and information requirements
 - Employee identification of unusual and suspicious activity

- If feasible, computer and other monitoring systems to identify unusual or suspicious transactions
 - Establishment of a hot line
 - Procedures for reviewing and reporting suspicious transactions within the confines of applicable laws and regulations
5. Responsibilities of the Compliance Officer and compliance reviews
 6. Training and education of appropriate employees
 7. Audit

[WA983090.022](#)

CLIENT MEMORANDUM

Re: Cash And Monetary Instrument Reporting Requirements For Trades And Business: Section 6050I And IRS Form 8300

Section 6050I of the Internal Revenue Code requires trades and businesses to report cash and certain monetary instrument receipts that total more than \$10,000 on IRS Form 8300. A "trade or business" is defined as any activity constituting the sale of goods or the performance of services to produce income. It does not include "financial institutions" that are subject to the requirements of the Bank Secrecy Act regulations, 31 C.F.R. Part 103, and that file IRS Form 4789, Currency Transaction Report, or IRS Form 8362, Currency Transaction Report by Casinos, for cash transactions that exceed \$10,000. Examples of trades and businesses include: *wholesale and retail sellers of aircraft, antiques, art, automobiles, boats, coins, entertainment, equipment, furniture, furs, jewelry and perishables; accountants; airlines; attorneys; auction houses; consumer finance companies; hotels; insurance companies; leasing companies; pawn brokers; real estate brokers and travel agents.*

Although Section 6050I was enacted in 1984, it is only within the last five years that the IRS and United States Attorney's Offices around the country have begun aggressively pursuing offenders. This memorandum summarizes the cash and monetary instrument reporting requirements for trades and businesses.

LEGAL REQUIREMENTS

Any person who is engaged in a trade or business and who receives in the course of that trade or business more than \$10,000 in cash or certain monetary instruments in a single transaction or related transactions must file an IRS Form 8300 with the Internal Revenue Service. 26 U.S.C. 6050I.

Receipts Covered

Until February 3, 1992, trades and businesses only were required to report receipts of cash of over \$10,000. However, since February 3, 1992, the definition of "cash" was expanded to include certain types of monetary instruments under certain circumstances. Under IRS regulations: (1) retail sellers who receive cashier's checks, bank drafts, traveler's checks and money orders with a face value of \$10,000 or less must treat these instruments as cash if they are received in payment for consumer durables, collectibles and travel or entertainment; and (2) all trades and businesses must treat these same instruments as cash if they have knowledge that the instruments are being used to avoid the Form 8300 filing requirement. If these instruments together, or when combined with cash, total more than \$10,000 in any one transaction or in two or more related transactions, an IRS Form 8300 must be filed.

The new regulations provide generally for three limited exceptions for retail sellers, if certain conditions are met: (1) the monetary instruments are the proceeds of a loan from a bank, thrift institution or credit union (but not a consumer

finance company regardless of whether it is a wholly-owned subsidiary of a bank); (2) the instruments are received in payment in an ordinary promissory note or installment sales contract and the total payments received by the 60th day of the note or contract do not exceed 50 percent of the purchase price; or (3) the instruments are received as part of a payment plan requiring downpayments and the balance of the purchase price 60 days before the sale date.

Related Transactions

Trades and businesses must aggregate "related transactions." "Related transactions" mean "any transaction conducted between a payor (or its agent) and a recipient of cash in a 24-hour period." In addition, "related transactions" cover "transactions conducted between a payor (or its agent) and a cash recipient during a period of more than 24 hours . . . if the recipient knows or has reason to know that each transaction is one of a series of connected transactions." 26 C.F.R. 1.6050I-1. Transactions are not required to be aggregated if they are conducted at different stores, branches, offices or departments of the recipient and the recipient does not know or have reason to know in the ordinary course of business (through a central unit or otherwise) that the payor is engaging in multiple transactions.

24-Hour Period

All cash transactions that are conducted by or on behalf of the same customer in a 24-hour period must be aggregated. If the cash transactions total over \$10,000, an IRS Form 8300 must be filed. For example: At 10:00 a.m. John purchases a diamond engagement ring at his favorite retail jewelry store. He pays for the ring with \$8,000 in cash. Later that same day, John returns to the same store and purchases two gold wedding bands and pays for them with a \$4,000 bank check. Under the new IRS regulations, the retail store must treat the \$4,000 bank check as cash because it has a face value of \$10,000 or less and it is being received as payment for a consumer durable. Because the cash and the bank check together total \$12,000, the jewelry store must complete IRS Form 8300 and file it with the IRS within 15 days from the date of the transaction.

More Than 24 Hours

Multiple cash transactions that are conducted during the course of a rolling 12-month period by or on behalf of the same person also must be aggregated if the trade or business knows or has reason to know that the transactions are related. If the total cash transactions exceed \$10,000, an IRS Form 8300 must be filed. Although IRS regulations do not specifically define when transactions are "related," it is clear that they include more than the sale of goods in installments. IRS examples of related transactions include installment sales, cash deposits, transactions that are conducted pursuant to a tacit agreement to purchase goods of over \$10,000 over time, agreements to pay for continuing services on an hourly basis that subsequently total over \$10,000 and cash sales of goods on successive days that total more than \$10,000 if the seller knows or has reason to know that each transaction is one of a series of "connected" transactions.

Cash payments for the purchase of a single item on different days clearly trigger the filing requirements. For example: Mary purchases a \$16,000

automobile from a local dealership. The dealer agrees to permit Mary to pay for the car in four quarterly payments of \$4,000 each. Mary pays the first installment with \$4,000 in cash, the second installment with \$4,000 in cash, the third installment with \$4,000 in cash and the fourth installment with \$4,000 in cash. If the dealership knows or has reason to know that Mary's third payment brings the amount of cash received to over \$10,000, it must file an IRS Form 8300 with the IRS within 15 days of the third payment. A Form 8300 is not required to be filed after the fourth payment.

Notice to Customers

Any trade or business that files a Form 8300 with the IRS also is required to provide notice of the filing to any customer who is named on the form. This statement must be sent to the customer by January 31st of the year after the year in which the reportable transaction took place.

Recordkeeping

Each trade or business must retain a copy of each IRS Form 8300 that it files for a period of five years.

PENALTIES

The willful failure to file an IRS Form 8300, to file an incorrect form or to provide the required statement, can result in criminal and civil penalties. It is a 5-year felony to willfully fail to file an IRS Form 8300, or to file a false or fraudulent report. Criminal fines also can be imposed for up to \$250,000 for individuals or \$500,000 for organizations per violation. In addition, civil penalties may be assessed for each willful failure to file a Form 8300 for up to the greater of \$25,000 or the amount of cash received in the transaction up to \$100,000. It also is both a criminal and civil violation of the statute to structure transactions to evade the reporting requirements.

IRS FORM 8300 CONTENTS

Form 8300 is divided into four parts.

Part I requires information concerning the individual(s) from whom cash was received, including the name, address, social security number or alien identification number, date of birth and occupation of the transactor(s). The name and address of the transactor(s) must be verified by examining a document that is normally acceptable when cashing a check. Acceptable forms of identification include a driver's license, passport, alien identification card and non-driver identification cards issued by the state.

Part II requires similar information concerning the person(s) on whose behalf a transaction is being conducted.

Part III requires information concerning the nature of the transaction, the amount of the transaction and the method of payment, including a description of the property or service purchased.

Part IV requires a description of the trade or business reporting the transaction and the signature of an authorized individual within that trade or business.

WHEN TO FILE FORMS 8300

For reportable cash transactions that occur in a 24-hour period, an IRS Form 8300 must be filed with the IRS by the 15th day after the date of the transaction.

For multiple cash transactions that aggregate to more than \$10,000 over different days, the report must be filed with the IRS within 15 days of the date of the payment that causes the total to exceed \$10,000. If subsequent payments exceed \$10,000, an additional report must be filed.

For example: If Tom purchases materials for a construction site of \$36,000 from a supplier and makes an initial cash payment of \$15,000 and three subsequent cash payments of \$7,000 each month thereafter, two IRS Forms 8300 should be filed. The first form would be required to be filed within 15 days of the initial \$15,000 payment. A second Form 8300 would be required to be filed after the third payment, because the second and third payments total \$14,000. No IRS Form 8300 would be required after the final \$7,000 cash payment, because it does not exceed \$10,000.

The preceding examples are provided for illustration only. Counsel should be consulted with regard to any specific factual situations.

Questions involving the cash transaction reporting requirements for trades and businesses may be directed to Amy G. Rudnick, Partner, or Linda Noonan, Attorney, in our Washington, D.C., office. Ms. Rudnick, who was formerly Director of the Office of Financial Enforcement at the Department of the Treasury, may be contacted at (202) 955-8210. Ms. Noonan, who was previously Senior Counsel for Financial Enforcement in the Treasury Department's Office of General Counsel, may be reached at (202) 887-3595.

Revised November 13, 1997

[WA952960.062](#)

MEMORANDUM TO CLIENTS

RE: Black Market Peso Brokering Involving The Use of Legitimate U.S. Businesses

On June 21, 1999, the Senate Caucus on International Narcotics Control, chaired by Senator Charles E. Grassley (R-IA), held hearings on the problem of Colombian "black market peso brokering" as a means of laundering the proceeds of drug sales in the United States through legitimate and unwitting U.S. businesses. Witnesses testified that money exchanged through Colombian peso brokers is financing up to 25 percent of all imports shipped to Colombia each year (about \$5 billion) and that this figure is rising. They explained that, while the problem appears primarily related to U.S. exports, it also affects exports to Colombia from Europe and Asia (Japan and South Korea). The problem appears to be acute with respect to exports sold through the Miami Free Trade Zone and other areas of South Florida, the Colon Free Trade Zone (Panama), Aruba and other Caribbean countries.

An unidentified former Colombian peso broker, who is in federal custody, testified that he had made payments to the distributors of a number of U.S. manufacturers, but not to the U.S. companies directly. This "hooded" witness stated that he had made payments over many years relating to Sony, Coca Cola, General Electric and Whirlpool products and would provide the Committee with a list of other companies. The Chairman and witnesses cited General Electric Company as the company that has made the greatest strides against the problem. Also noted as companies that had taken effective action were Whirlpool and DaeWoo.

Government Program

According to U.S. government witnesses, the United States, in cooperation with the Government of Colombia, is making a concerted effort to attack the black market peso exchange problem through education and enforcement action. At the forefront of this effort is the U.S. Customs Service and the Treasury Department's Financial Crimes Enforcement Network ("FinCEN"). On June 21, 1999, Customs issued a brochure to be distributed widely to U.S. exporters. In addition, FinCEN issued an Advisory updating its October 1997 Black Market Peso Exchange Advisory.

In light of increased Congressional interest in this area and the potential criminal and civil liability that individuals and companies face under U.S. money laundering statutes for knowingly engaging in a financial transaction involving illegal drug proceeds, businesses exporting to Colombia should consider seriously developing or enhancing their programs for preventing and detecting money laundering and other suspicious activity. It is clear that the government expects companies that export to

Colombia to take proactive measures, not only to monitor their own activities, but those of their distributors.

The Black Market Peso Brokering Process

Black market peso brokering has long been recognized as an effective and inexpensive way for Colombian import businesses or "contrabandistas" to pay for goods in U.S. dollars and to avoid paying Colombian import duties and taxes. At the same time, however, the black market peso exchange can provide the Colombian drug cartels with a means of laundering the cash generated by the illegal sale of narcotics in the United States without the U.S. dollars ever having to leave the country.

The following is an example of *one* way that the black market peso exchange can be used to launder money. First, the Colombian drug cartel may sell the proceeds of illegal U.S. narcotics sales to a Colombian black market peso exchanger at a discount. The peso exchanger then will hire individuals, generally Colombian tourists or residents of the United States, or "smurfs," to open small accounts in their own names or in fictitious names at U.S. banks and to deposit the cash into these accounts in amounts significantly less than the U.S. dollar reporting threshold of \$10,000.

Second, a Colombian business that is importing goods from the United States will pay the peso exchanger in pesos in Colombia for these U.S. dollars at an exchange rate that is substantially better than the rate provided by banks.

Third, the peso exchanger will arrange to pay the distributor of the U.S. manufacturing firm that exports to Colombia or, in some cases, the U.S. manufacturing firm itself. Payment may be made by wire transferring the funds from the smurf accounts or a larger consolidated account, by checks drawn on these accounts, and, even in some cases, with the cash received directly by the peso exchanger from the cartels in the United States. The end result is to provide the U.S. exporter with drug dollars in payment of a legitimate transaction and the Colombian drug cartels with pesos that appear to be legitimately derived.

The Risk to U.S. Businesses

Under U.S. money laundering laws, it is a crime for any person to engage in a transaction of more than \$10,000 with the proceeds of certain specified criminal activities, including illegal drug sales, knowing that the property is criminally-derived. In addition, it is a crime for any person to engage in a financial transaction with the proceeds of drug and other crimes in any amount knowing that the property is criminally-derived if the person intends to promote criminal activity, conceal or disguise its origin or source, evade U.S. taxes or evade currency reporting requirements. For purposes of these statutes, "knowing" includes "willful blindness." Thus, if a person has his or her suspicions aroused, but deliberately fails to ask questions or investigate the activity further, he or she could be considered to have knowledge of the illegal source of the funds. A business that accepts forms of payment that the government has identified as unusual or suspicious or where there are red flags that its distributors are accepting

such payments might be considered to be "on notice" that a money laundering transaction may be occurring, particularly if the company has not taken reasonable proactive steps to prevent these payments. In addition, businesses may be required to report the activity to government authorities under Section 6050I of the Internal Revenue Code.

Industries Affected

In prior press reports and Congressional hearings, it has been discussed that exports to Colombia of appliances, electronics, computers, tobacco, distilled spirits and cosmetics are financed through the black market peso exchange. In this hearing, in her prepared statement, the Colombian Director of Revenue and Customs Service noted that the problem also is prevalent with respect to exports of textiles, clothing, automotive parts and tires, perfumes, jewelry, automobiles, footwear, processed food, chicken parts, chemical products, iron and steel, cement, toys and rice.

While the Government's focus is on exports to Colombia, it is our understanding that the problem also affects black market exports to Venezuela and could spill over to other countries in the region.

If you have any questions or need further information about the hearing or a copy of the prepared testimony, Customs brochure, the FinCEN Advisory or applicable anti-money laundering requirements, please contact the following:

Amy G. Rudnick, Partner	(202) 955-8210
Linda Noonan, Attorney	(202) 887-3595

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