

US Department of Justice

20th UNAFEI UNCAC TRAINING PROGRAMME (8-Nov)
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Asset Forfeiture and Money Laundering Section



**How US
prosecutors and
investigators use
anti-money
laundering laws to
investigate and
prosecute domestic
and foreign
corruption affecting
the US**



3 Main Goals

Provide information about

- **US domestic official corruption prosecutions**
- **US - Anti-corruption programs focused on foreign corruption–**
 - **Enforcement of the Anti-Foreign Bribery Statute** – Focused on U.S.-based foreign bribery
 - **Kleptocracy Asset Recovery Initiative** -Focused on money laundering and assets linked to foreign corruption affecting the U.S.

What is money laundering?





What is Money Laundering?

- Concealment –
 - Converting property gained from illegal activity into property that appears legitimate so that its illegal source cannot be traced
- Promotion –
 - Using illicit proceeds to promote an illegal activity



Traditional Money Laundering Typologies

- (1) Use regulated “financial institutions” to structure transactions to avoid reporting requirements
- (2) Use cash couriers & bulk cash smuggling (BCS)
- (3) Use money services businesses (MSBs) & informal value transfer systems (hawala)
- (3) Use trusts and corporations to hold assets and conceal beneficial ownership



Three principle money anti-laundering laws

- Prohibiting financial transactions linked to corruption related offenses
- Prohibiting deposits of \$10,000 or more of proceeds of corruption in a financial institution



Disclosure Requirements

- Requirements to disclose:
 - bringing \$10,000 or more into/out of US
 - Sources of the funds in bank deposits/wires
 - the connection between account holders and PEPs
 - control over a foreign bank account

No unexplained wealth law in the US

Overview

- Corruption crimes are generally committed in secret by people who do not want to be found out
- Even people who were threatened or pressured want to continue to do business
- Guilty plea and cooperation agreements are key tools for investigating and prosecuting complex crimes

Corruption Involving US Government Officials and Law Enforcement Officials



US Mechanisms to prevent and disclose corruption

- Regular audits
- Offices of Inspector General/Professional misconduct investigators
- Asset/lobbying disclosure requirements
- Tax enforcement
- Free press and FOIA to access info
- State and federal specialized prosecutors and investigators



Corruption involving US officials (that we know about):

- Bribes are relatively small
- Often in the form of trips, home improvements, expensive watches, jobs after public service, jobs for spouses or children, “gambling winnings,” and cash for narcotics investigators
- Corruption risks:
 - Campaign support – can be large/disclosure varies
 - Charities run by public officials or their staff and friends



As a result:

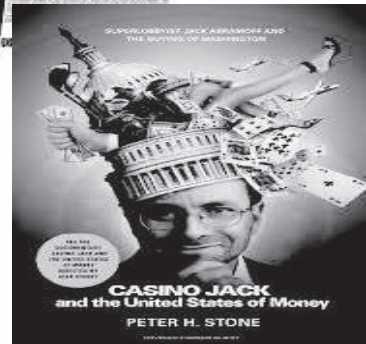
- Few bribes to US officials paid overseas or laundered overseas
 - Not necessary - relatively small amounts compared to the value of official action
 - Not necessary -- Paid In kind
 - Needed in the for US campaign expenses



Embezzlement – (that we know about):

- Often detected if it is large scale by Inspector general's or auditors looking for waste, fraud and abuse of government funds and programs
- Often detected when long term employees are away from their jobs
- Money laundering violations are common in spending the stolen money

Bribery Case -- Lobbyist Jack Abramoff



Bribery Scheme: "Operation Rainmakers"

- Lobbyist Jack Abramoff
 - Defrauded his clients and paid a US Congressman and many federal congressional staff and executive branch officials for official action--
 - expensive sports tickets
 - Extravagant golf trips
 - employment with his firm
 - regular expensive meals
 - Jobs for spouses
 - Campaign support/contributions

Investigation Team

- FBI corruption investigators
- IG's from various agencies
- Tax investigators (IRS)
- Federal Prosecutors

US Representative Robert Ney, his chief of staff and former chief of staff





Things of value to Ney and his staff

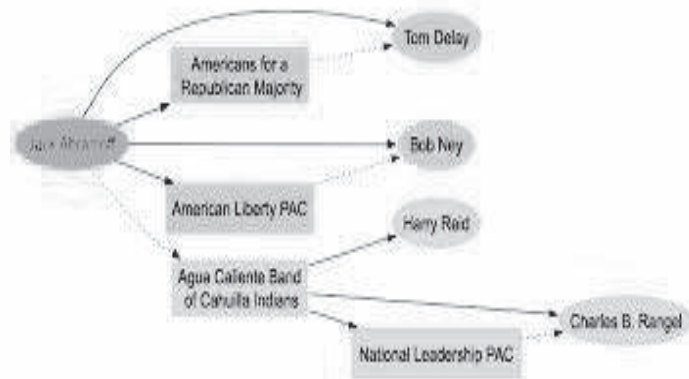
- Lobbying job to chief of staff (Neil Voltz)
- Regular high end meals at *Signatures*
- Scotland golf trip on chartered plane
- Campaign support
- Introduction to Speaker of the House



Scotland golf trip



Political Campaign Support



Examples of what Ney gave?

- Inserted legislation favorable to Abramoff client in must-pass legislation he oversaw as Committee chair
- Support for Abramoff with his clients



Evidence

- **Extensive emails** = written record of who the lobbyists intended to bribe, for what, when and how
 - Few emails from public officials
- **Evidence provided by co-conspirators who pled guilty for sentencing leniency**
- Lobbying/asset disclosure records
- Public records of actions taken
 - Legislation introduced or opposed
 - Hearings conducted
 - Other official action by executive branch officials




Limited Use of ML laws

- Money laundering offense is the financial transaction by the criminal or agent
 - after the bribe is paid
- ML transactions were mainly spending of salaries, gambling winnings, illegal campaign support
- Charges included conspiracy, honest services fraud, false disclosures and tax offenses



Results: convictions

- 22 people
 - Several lobbyists
 - One US Representative
 - Several congressional staff members
 - Former Chief of Staff to an executive agency
 - Former Deputy Secretary of executive branch office for Native American Indian Affairs
 - NGO operators



Prison sentences - sometimes reduced by guilty plea and cooperation agreements

- Abramoff - 9 years reduced to 4 years plus fines and penalties and requirement to file corrected taxes
- Scanlon - 3 years after cooperation
- Congressman Ney - 18 months - no cooperation
- Deputy Interior Secretary - 12 months - no cooperation
- Safavian - Chief of Staff GSA -
- Others - supervised release/ home arrest to 24 months



Embezzlement Scheme— \$53.7 million Stolen from City over 17 years

Rita Crundwell, Comptroller of City of
Dixon, Illinois



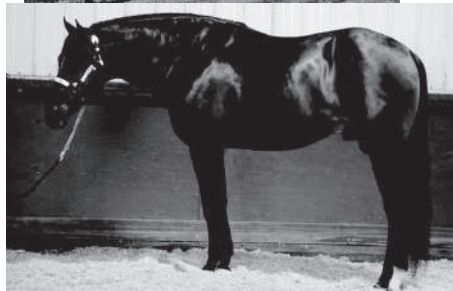
Pled guilty to one count of embezzlement—
sentenced to 19 years and 3 months



Rita Crundwell

- 30 year head-budget official of a medium size US city
- Diverted city money from city bank accounts into a breeding farm for race horses (about 400 American Quarterhorses)
 - Bought champion quarter horses
 - Bred and raised champion horses
 - Built a ranch in rural area
 - Hired skilled care
 - Bought a \$2M motor home

Laundered stolen funds



US Marshals Service conducted auctions

How did she do it?

- Maintained sole control over books and records of income and disbursements
- Created a “reserve account” and used phony invoices to withdraw funds
- Weak and ineffective outside audits
- Was well-liked and trusted
- Good liar – published false accounting reports



Recovery for victim about \$10 M

- Forfeiture and sale proceeds of
 - Horses
 - Real property
 - Motor home
 - cars
 - Trophies and prizes
 - Valuable clothing and personal items



Additional Recovery for victim

- Civil law suits for damages against accounting firms and law firms for negligence



DEA Supervisory Special Agent Rene De La Cova

Assigned to arrest Manuel Noreiga
Talented undercover agent



Theft of US government funds--Narcotics investigator

- Later Rene De la Cova – DEA group supervisor
 - Posing as a money launderer
 - “Store front” operations
 - Stole \$1m seized from drug dealers
- Pled guilty to theft of government funds; sentenced to 24 months and ordered to pay \$760,000



Stole \$1M from Colombian drug dealers

- Posing as a money launderer in a u/c money laundering operation,
 - he received and “laundered” and sent back to drug traffickers 3 loads of \$1m each over a few months with DEA agents
 - picked up \$1million from the drug dealers by himself and kept it – flew back to South Florida with the money in suitcases with wheels stuffed with cash



How Discovered ?

- Drug dealers asking for their money back raised suspicions of other narcotics investigators
- Irritated a bank teller
- OPR for DEA investigated
 - Identified a large amount of cash in a safe deposit box
 - a new boat
 - several bank accounts in his name
 - thousands of dollars concealed in his house



US Representative Corrine Brown- 25 year career until charges

- Congresswoman established a charity “one Door to Education” to benefit children run by her chief of staff
- Solicited \$800,000 from public and people who wanted official actions
- Used money to pay for personal expenses and luxury items in office and after she left office. Gave \$1,000 in scholarships
- Convicted of income tax fraud and wire fraud - awaiting sentencing



How Discovered?

- False and incomplete disclosures required for charities
- No evidence she used the money for children which was the stated charitable purpose
- FBI investigation –
 - Evidence proved by chief of staff who pled guilty for sentencing leniency
 - Audit of the receipts and disbursements and sources of her expenditures

US Programs to Address Foreign Bribery



Foreign Corrupt Practices Act Enforcement “FCPA” Program


- Makes it a US crime for US companies to
 - Pay bribes to foreign government officials
 - Negotiate or arrange the bribe in the US

Generally “US” companies are



- companies whose stock or other investment vehicles (ADRs) are traded on US exchanges



USE FCPA

- 
- Prosecute companies or enter into Deferred Prosecution Agreements (DPAs)
 - Fines and penalties to disgorge profits
 - Consequences
 - Debarment from contracting
 - Expensive monitoring
 - Civil suits by shareholders
 - Prosecute individuals
 - Officers/directors
 - Agents/intermediaries
 - Jail terms
 - Fines and penalties
 - Contracting debarment or license canceled

FCPA related prosecutions

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- 
- Self reporting common
 - Use cooperation in the form of evidence provided to company -
 - Money laundering cases against bribe payers or facilitators
 - Forfeiture of proceeds or instrumentalities



ODEBRECHT, S.A and Braskem S.A. (subsidiary)

- Prosecuted in Brazil, US and Switzerland
- Cooperated
 - in US to obtain reductions in fines
 - entered into plea and cooperation agreements /\$788 m in bribes -2001 - 2015
 - Paid a total of approx. \$2.6B
 - Provided information
 - Admitted to paying bribes to officials for contracts in 11 countries



Vimpelcom & Telia Sonora

- Telecommunications companies operating in Uzbekistan prosecuted in US, Netherlands and cooperated
 - Paid over \$114M and \$331M in bribes to Uzbek official for rights and assistance
 - In US entered into DPA with monitor appointed
 - Paid \$230M and \$965M in fines to US and Sweden
 - Provided information about how bribes were paid and to whom



SEC Whistleblower program

- Money for tips leading to prosecution
- Involvement is not a bar but may limit recovery



Kleptocracy Asset Recovery Initiative

- Mission to meet US and UNCAC obligations
 - to prevent the US from being a safe haven for corruption proceeds
 - to deter criminals from using US financial system to move illicit proceeds
 - to remove dirty money from the US through forfeiture

FCPA – KARI



Uzbek corruption example

- FCPA prosecutions
- NCB forfeiture
 - Restrained \$850 M in assets during the investigation
 - With help of Swiss, Belgium and Luxembourg
 - Forfeiture pending



United Nations Convention Against Corruption (UNCAC)

- Negotiated January 2002 to October 2003
- Opened for signature December 9, 2003 in Merida, Mexico
- Entered into force December 14, 2005
- Ratified by 137 States Parties
- U.S. ratified in 2006



HIGHLIGHTS FOR ASSET RECOVERY

- Detection, identification – Articles 14, 52, 58
- Money laundering, confiscation – Articles 23, 31
- Required ability to provide assistance in forfeiture – Articles 53, 54
- Forfeiture assistance – Article 55
- Disposition of forfeited property – Article 57
- Dual criminality – Article 46 (9)



Criminal Prosecutions and Asset Recovery Linked to Foreign Corruption

- Since 2015, charged 8 defendants with money laundering and other offenses



Non-conviction based (NCB) and Criminal Asset Forfeiture

- NCB – Against the Property
 - Useful for assets of dead, people who cannot be extradited, are legally immune and practically immunize
 - Must be able to trace the asset to the criminal activity
 - Obtain judgments forfeiting specific assets to the US
- Criminal – Against the person
 - Part of sentencing
 - Can trace but NO tracing required –
 - Judgments for value of illicit profits and/or specific assets
 - Can collect against substitute assets

Rights of Third parties or property holders

Criminal

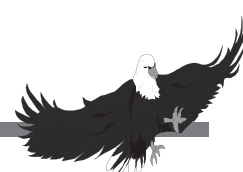
- Court enters preliminary order of forfeiture after conviction and hearing
- Gov't provides notice and opportunity to claim to known claimants and by publication
 - Claimants have burden to show by preponderance of evidence they purchased before crime
 - for value and without knowledge of involvement in crime
 - Representation may be provided

Civil Forfeiture

- All known potential claimants given notice and publication upon filing of complaint
- Parties compel information from each other – documents and depositions
- Government first proves link between crime and asset
 - Then claimant must show by preponderance of evidence they purchased for value
 - Without knowledge of involvement in crime
 - Rights to legal representation
 - Could recover attorneys fees

ENFORCEMENT OF FOREIGN CONFISCATION JUDGMENTS

28 U.S.C. § 2467



- US can enforce Criminal and *in rem* Judgments
 - Foreign offense must be one that would be a basis for forfeiture if committed in the U.S.
 - Treaty or Agreement requiring cooperation by the US
 - Attorney General Certification of fair process in foreign jurisdiction



Restrained by court order approx. \$3.3 billion in assets to date

Nigeria: \$630 M stolen by Dictator Sani Abacha (deceased)
\$144 M related to Oil bribery

Malaysia: \$1.6 stolen from sovereign wealth fund – 1MDB

Uzbekistan: \$850 M in bribes paid to President's daughter

Ukraine: \$280 M in bribes, extortion payments and fraud proceeds
Ukrainian Prime Minister Pavlo Lazarenko

Honduras: Approx. \$2M in rental property in kickbacks paid to
former Social Services Agency head

Chad: \$33 M in stocks and cash paid to former Chad Ambassador
US and Canada, his DCM and their wives in oil scheme

Philippines: \$12.5 M in real estate and stock in proceeds of bribery
kickback scheme



Recovered and Being Repatriated since 2010: Approx. \$170 million under UNCAC

- \$115 M for the benefit of people of Kazakhstan – bribe money intended for unnamed Kazakh officials
- \$30 M for the benefit of people of South Korea representing bribe proceeds of former President Chun Doo-hwan
- \$1.5 for the benefit of people of Taiwan representing bribe proceeds of former President Shui-Bian Chen
- \$30 M being repatriated for the benefit of people of Equatorial Guinea

Recovered and repatriated before 2010

- \$117 million to Italy
- \$115 million for benefit of citizens of Kazakhstan
- \$22.2 million to Peru
- \$2.7 million to Nicaragua
- \$7.8 million for Taiwan government



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