



UNITED STATES' AML LAWS

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- Basic Money Laundering Statute (18 U.S.C. § 1956)
 - Spending Statute (18 U.S.C. § 1957)
 - Bulk Cash Smuggling (31 U.S.C. § 5332)
 - Unlicensed Money Remitter (18 U.S.C. § 1960)
 - Structuring transactions to avoid reporting (31 U.S.C. § 5324)

Money Laundering §1956

- 
- To conduct or attempt to conduct a financial transaction
 - Knowing that the property involved
 - Represents the proceeds of “some form” of specified unlawful activity
 - To Promote the Crime or
 - To violate U.S. tax laws or
 - Knowing that the transaction is designed
 - To conceal or disguise the source, ownership or control of the money or
 - To avoid a transaction reporting requirement



Specified Unlawful Activities We Use


- Offense against a foreign nation involving
 - bribery of a public official, or
 - misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official
 - Or International Theft of Stolen Property, Wire Fraud, foreign bank fraud, US bank fraud



18 U.S.C. 1957 (*Spending Statute*)

- Makes it a crime to knowingly engage in a “monetary transaction” in criminally derived property that is greater than \$10,000 from SUA





§ 1956(a)(1)(B)(ii) – to Avoid Financial Reporting Requirements of Bank Secrecy Act (BSA)

- Currency & Foreign Transactions Reporting Act of 1970 [31 U.S.C. § 5311, et seq.]
- Currency Transaction Reports (CTRs) (US bank > \$10,000)
- Currency Transaction Reports – Casinos (CTR-C)
- Form 8300 by businesses (>\$10,000)
- Currency and Monetary Instrument report (CMIR) (int'l >\$10,000)
- Suspicious Activity Report (SAR)
- Foreign Bank Account Report (FBAR) (> \$10,000)
- IRS Form 8300 (commercial transactions > \$10,000)

CONSPIRACY

- **§ 1956 (h)**

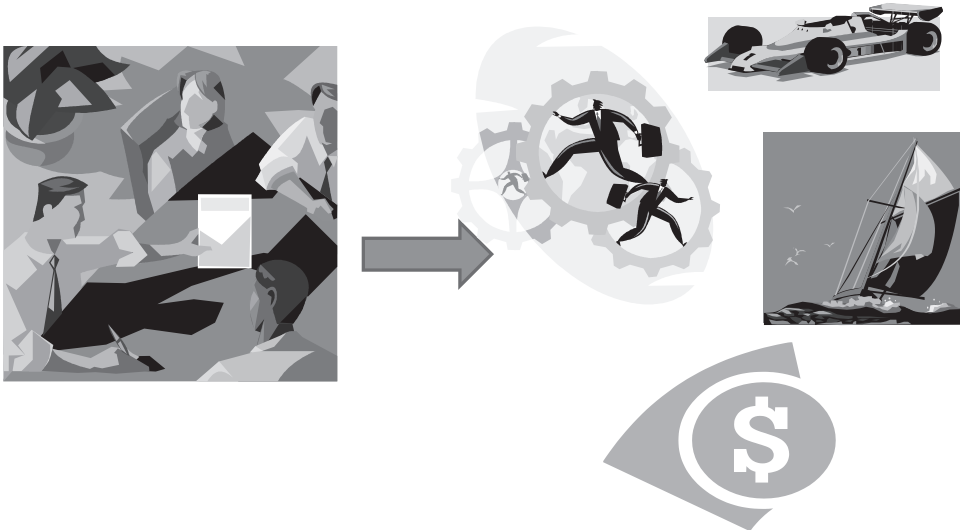
**Agreement to
Violate the Law**

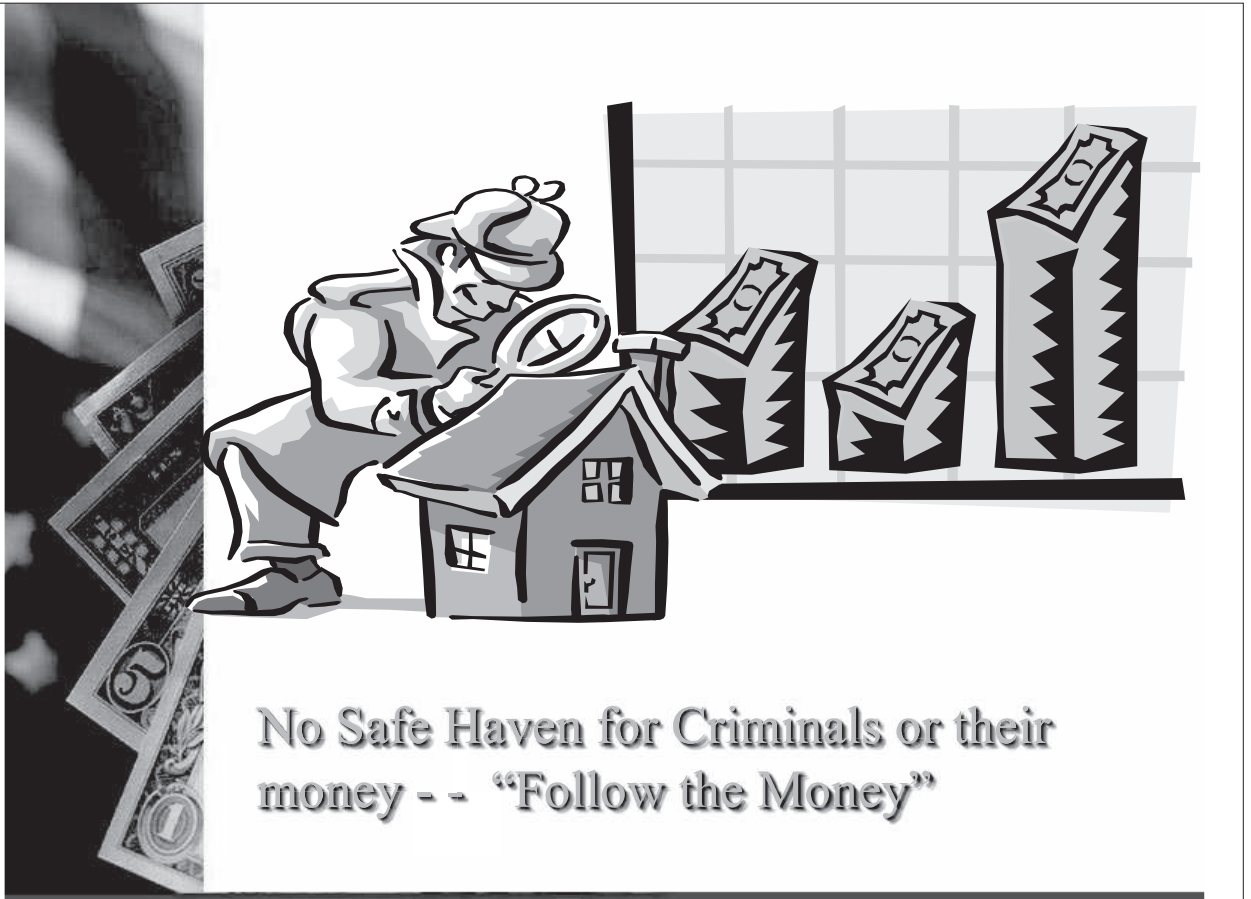


US JURISDICTION

- Conduct in the US
- Assets in the US – real estate, cash, boats, planes, etc.
- U.S. Correspondent Banking Transactions

Connect the asset to the corruption





No Safe Haven for Criminals or their money - - “Follow the Money”



Methods of Moving Money


- Use of “gatekeepers” to set up complex trusts, private companies to conduct bank transactions and to own real estate, yachts, planes, etc.
e.g., Use of Mosack Fonseca law firm disclosed in “Panama Papers”
- Use of high limit credit cards
- Purchase high value art and use as collateral to borrow money
- Sell shares of shell corporations that hold assets

*Money Service Businesses
(generally required to register)*





Many Barriers

- 
- Difficulty proving underlying crime
 - Difficulty proving financial relationships
 - Resource intensive
 - Differences in legal systems
 - Distrust of ultimate use by victim state of repatriated funds

Case Study: Use of Non-Conviction Based Forfeiture In Foreign Corruption Affecting US



- Equatorial Guinea
 - Rich in natural resources
- Government
 - Second Vice President
 - Salary less than \$100,000 per year

Obiang Case Study

**Scheme 1 – Timber Export
Extortion**



**Scheme 2 – Infrastructure Firm
Extortion**



Obiang Case Study



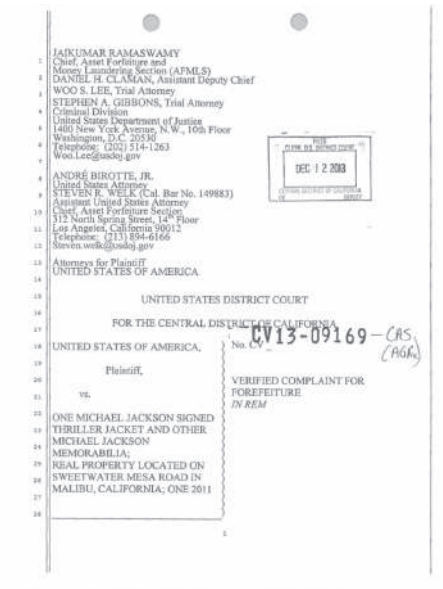
Challenges

- No illicit wealth violation
- No witnesses to corruption in the US
- Possible bank fraud
- Judge very skeptical of our circumstantial evidence

Opportunities

- Judge liked our bank fraud theory
- Obiang removed the glove and other Michael Jackson paraphernalia in violation of court order
- Obiang did not want to come to US for his deposition or anywhere else

Results



- House, Ferrari, and memorabilia sold
 - \$11 million to United States
 - Approximately \$20 million to charity to benefit people of Equatorial Guinea
- Keep jet in Equatorial Guinea
- Declare and remove any other assets from United States

Case Study: Non-Conviction Based Forfeiture Involving Foreign Corruption Affecting the US

- Republic of Korea convicted former President Chun Doo Hwan of bribery
 - Net \$1.5 M forfeited and returned
 - Net \$27.5 M returned voluntarily



Property Recovered Linked to Bribes Paid To Former Taiwan President

- Forfeited from a son living in the U.S. and his second wife representing bribe money:
 - Proceeds of house sales in Georgia and then in California
 - Interest in EB-5 program investment in Philadelphia investment fund
- Also during investigation, another person in U.S. returned \$27.5 million in to Taiwan representing bribe money from the former president

Former Peruvian President Alberto Fujimori



Ex-Peruvian Spymaster Vladimiro Montesinos



Vladimiro Montesinos



- This image, broadcast on Peruvian television allegedly shows Agustin Mantilla pocketing a bribe from Peruvian ex-spy chief and top adviser to former President Fujimori, Vladimiro Montesinos.



Vladimiro Montesinos



- Peruvian legislator Ernesto Gamarra, right, appears in an undated video receiving cash from Luis Venero, who has been linked to fugitive spy chief Vladimiro Montesinos.

U.S. COMMITMENT TO ASSET RECOVERY IN PRACTICE

- Montesinos/Venero (Peru)
 - August 2004 repatriation of \$20.2 million
 - Assistance led associates of Fujimori/Montesinos/Venero to voluntarily repatriate substantial additional assets
- Byron Jerez (Nicaragua)
 - December 2004 repatriation of \$2.7 million to Nicaragua
 - Technical Assistance to financial investigators





INTERNATIONAL PARTNERS RESULTS

- Abacha
 - Switzerland \$500 million repatriated
 - Jersey \$160 million repatriated
- Fujimori/Montesinos
 - Switzerland \$77.5 million repatriated in 2002
 - Switzerland additional \$48 million
 - United States PIB accts - \$20.2 million repatriated
 - Cayman Islands PIB “loan” to Peruvian bank of \$33 million
 - Additional funds frozen in Luxembourg, Panama, Mexico

Other Successful Resolutions

- \$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



TOOLS WE USE

Cooperation Between FIUs

-Formal and Informal

Cooperation Between

Investigators/prosecutors

Plus: Open source information

Social media information



Egmont Requests: The Egmont Group of Financial Intelligence Units –121 Member FIUs



- 1995 – Egmont Arenberg Palace, Brussels
- Informal group to stimulate int'l cooperation
- Goals: expand int'l cooperation
 - increase FIU effectiveness
 - better communication w Egmont Secure Web (ESW)



The Egmont Group of Financial Intelligence Units



Request for FIU Information

What information do you need from the disclosing FIU?

For what purpose(s) will the information requested be used?

Are there ongoing formal investigations or judicial proceedings?


Do you anticipate asset forfeiture or securement in this case?

State the amount and type, or nature, of assets involved in this case.



Ask for what you need?

- Are there wire transfers in your country
 - Specify approximate amount, dates, names of possible persons/entities used
 - Identify the banks and other information so effective MLA is possible



Tools we use: U.S. SUSPICIOUS ACTIVITY REPORTS (SARs)

- 31 USC 5318(g) requires financial institutions to file Suspicious Activity Reports “SARS” with (FinCEN)
- SAR is required if transaction involves or aggregates at least \$5,000 in funds or other assets and bank knows or has reason to suspect the transaction:
 - (1) involves funds derived from illegal activities or is conducted to hide or disguise funds derived from illegal activities,
 - (2) is designed to evade reporting requirements, or
 - (3) has no business or apparent lawful purpose or is not the type of transaction in which the customer would normally be expected to engage.
- Banks retain SAR and “supporting documentation” for 5 years



TRADITIONAL USES OF SARs

- To support existing investigations –
 - To investigate money laundering of drug organization, access the FIU’s database for CTRs, 8300s, or SARs filed for the targets
 - Give FIU a list of criteria, subjects or money flows to watch for or analyze
- SAR itself is not evidence and may not be disclosed
- Use other authorities to obtain documentation behind the SAR and other reports



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