

OPENING STATEMENT OF NORM COLEMAN  
CHAIRMAN  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Hearing on

*Failures to Identify Company Owners Impedes Law Enforcement*  
November 14, 2006

Good afternoon, and thank you for attending today's hearing. I want to thank this Subcommittee's Ranking member, Senator Levin, for initiating this investigation, and I want to commend him for his continued efforts in addressing the abuses of shell companies both here and abroad.

The purpose of today's hearing is to examine the lack of information collected by various states regarding the ownership of non-publicly traded companies, and the extent to which U.S. shell companies are being used to conceal the identities of those engaged in illicit activity.

In the U.S., state governments authorize the formation of nearly two million new domestic companies each year. Although the vast majority of these companies are formed to serve legitimate commercial purposes, the potential for abuse is great. The absence of ownership disclosure requirements and lax regulatory regimes in many of our states make U.S. shell companies attractive vehicles for those seeking to launder money, evade taxes, finance terrorism, or conduct other illicit activity anonymously.

In fact, we generally have no idea who owns the millions of U.S. companies formed each year because most states do not ask for this information. In a recent report prepared at the request of this Subcommittee, the Government Accountability Office found that none of the 50 states requires applicants to disclose who will own a new corporation, and only a few states require this information for a new limited liability company or "LLC". Moreover, although most states require corporations and LLCs to file periodic reports, only three states require corporations to report ownership information in these filings, and only five states require the same of LLCs. Perhaps most troubling, GAO found that none of the states screens company information against criminal watch lists or verifies the identities of company officials.

This lack of transparency not only creates obvious vulnerabilities in our financial system, it also threatens our homeland security. GAO reports that the FBI has 103 open investigations involving financial market manipulation, and most of these cases involve U.S. shell companies. A Department of Justice report revealed that Russian officials used shell companies in Pennsylvania and Delaware to unlawfully divert \$15 million in international aid intended to upgrade the safety of former Soviet nuclear power plants.

Schemes like these are not uncommon, but without sufficient company ownership information, it is often difficult for law enforcement to identify and prosecute the criminals behind them. For example, Immigration and Customs Enforcement (ICE) officials reported that over a two year period one Nevada-based corporation received more than 3,700 suspicious wire transfers totaling \$81 million. This case has not prosecuted, however, because ICE was unable to identify the corporation's owners.

Clearly, our failure to identify the owners of U.S. shell companies is a significant deficiency in our anti-money laundering and terrorist financing efforts. And I am concerned that the competition among the states to attract company filing revenue and franchise taxes has in some instances resulted in a race to the bottom.

Internet searches reveal that in the race to provide faster, cheaper company formation processes, states that collect company ownership information are at a competitive disadvantage. Numerous websites laud the advantages of incorporating in states that protect privacy and limit information reporting requirements. Company formation and service of process agents in these states advertise packages that include nominee shareholders, nominee directors, local telephone listings, live receptionists, and other devices designed to provide the veneer of legitimacy to shell companies that employ no one and have no physical presence other than a mailing address.

That these formation and support services rival those offered in some of the most notorious offshore tax and financial secrecy havens is simply unacceptable. The United States should never be the situs of choice for international crime, but that is exactly what the lax regulatory regimes in some of our states are inviting. U.S. shell companies have been used to obscure the ownership and purpose of billions of dollars in international wire transfers and to facilitate criminal activity throughout the world. The FBI believes that U.S. shell companies have been used to launder as much as \$36 billion from the former Soviet Union. The U.S. Treasury's Financial Crimes Enforcement Network (FinCEN) found that, between April 1996 and January 2004, U.S. financial institutions filed 397 suspicious activity reports, concerning a total of almost \$4 billion, that involved U.S. shell companies and Eastern European countries.

It is embarrassing that foreign law enforcement agencies report being frustrated by the lack of ownership information available on U.S. companies, and that the Department of Justice is often unable to respond to requests for company ownership information from our treaty partners. In our fight to win the war on terrorism, opportunities to assist the law enforcement efforts of our allies are too precious to sacrifice. International criminal activities that exploit the lack of transparency in our company registrations, serve to tarnish our country's reputation internationally, and are more costly than ever.

At the same time, there are obvious costs and inefficiencies associated with the collection and verification of company ownership information. Many states recognize federal law enforcement's need for more company ownership information, but the states do not need an unfunded mandate from Congress.

The states raise legitimate concerns that collecting ownership information could delay or derail legitimate business deals, and drain limited state resources from other more pressing local needs. Moreover, it is likely that when more stringent disclosure requirements are passed in one state, companies will simply move to those states or countries with less stringent requirements.

It appears to me that what is needed is a level playing field, a system that avoids the race to the bottom. It would be nonsensical for someone to lock the front door, leave the backdoor wide open, and then go to sleep believing that his home is secure. Yet, in our efforts to secure this nation, we seem to have done exactly that. We have enhanced our security and identification requirements at our ports, airports, and along our borders, but we have ignored the obvious vulnerabilities created by anonymously owned U.S. companies.

We must find a commonsense solution that balances our need to protect our financial system, our homeland, and our international reputation, with our need to preserve an efficient, flexible business environment.

I look forward to the testimony we will hear during today's hearing. It is important that we understand the specific nature of the vulnerabilities created by anonymously owned U.S. shell companies and to hear proposals for steps that we can take to reduce the potential for abuse while preserving a system that does not derail or unnecessarily delay legitimate business.

After today's hearing and assessing the testimony, I intend to discuss with Senator Levin what follow-up action we need to take in order to further address the problems exposed by this investigation.

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