

**UNITED STATES OF AMERICA  
DEPARTMENT OF THE TREASURY  
FINANCIAL CRIMES ENFORCEMENT NETWORK**

**IN THE MATTER OF:** )  
 )  
 )  
 ) **Number 2006-9**  
**BEACH BANK** )  
**MIAMI BEACH, FLORIDA** )

**ASSESSMENT OF CIVIL MONEY PENALTY**

**I. INTRODUCTION**

Under the authority of the Bank Secrecy Act and regulations issued pursuant to that Act,<sup>1</sup> the Financial Crimes Enforcement Network has determined that grounds exist to assess a civil money penalty against Beach Bank, Miami Beach, Florida (“Beach Bank” or the “Bank”) and the Beach Bank Liquidating Trust, an Institution-Affiliated Party of the Bank (“Liquidating Trust” or the “Trust”). Beach Bank and the Liquidating Trust entered into a CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTY without admitting or denying the determinations by the Financial Crimes Enforcement Network, as described in Sections III and IV below, except as to jurisdiction in Section II below, which is admitted.

The CONSENT is incorporated into this ASSESSMENT OF CIVIL MONEY PENALTY (“Assessment”) by this reference.

**II. JURISDICTION**

Beach Bank is a state chartered financial institution headquartered in Miami Beach, Florida with one branch and approximately \$127 million in assets. The Bank received its charter from the State of Florida in 2000. The Federal Deposit Insurance Corporation is the Bank’s Federal functional regulator and examines Beach Bank for compliance with the Bank Secrecy Act, its implementing regulations and similar rules under Title 12 of the United States Code. The Florida Office of Financial Regulation examines Beach Bank for compliance with requirements under banking laws of the State of Florida comparable to those of the Bank Secrecy Act and its implementing regulations.

At all relevant times, Beach Bank was a “financial institution” and a “bank” within the meaning of the Bank Secrecy Act and the regulations issued pursuant to that Act.<sup>2</sup>

<sup>1</sup> 31 U.S.C. § 5311 et seq. and 31 C.F.R. Part 103.

<sup>2</sup> 31 U.S.C. § 5312(a)(2) and 31 C.F.R. § 103.11.

### III. DETERMINATIONS

#### A. Summary

Examinations of Beach Bank by the Federal Deposit Insurance Corporation and the Florida Office of Financial Regulation found deficiencies in Beach Bank's anti-money laundering program, revealing that Beach Bank failed to implement an adequate system of internal controls to ensure compliance with the Bank Secrecy Act and manage the risks of money laundering. These failures led, in turn, to failures to timely file numerous suspicious activity reports involving, in the aggregate, over one billion dollars of suspicious transactions.

#### B. Violations of the Requirement to Implement an Anti-Money Laundering Program

The Financial Crimes Enforcement Network has determined that Beach Bank violated the requirement to establish and implement an adequate anti-money laundering program. Since April 24, 2002, the Bank Secrecy Act and its implementing regulations have required banks to establish and implement anti-money laundering programs.<sup>3</sup> The anti-money laundering program of Beach Bank would meet these requirements if the program were to conform to rules of the Federal Deposit Insurance Corporation that govern anti-money laundering programs. Since 1987, the Federal Deposit Insurance Corporation has required a program reasonably designed to assure and monitor compliance with reporting and record keeping requirements under the Bank Secrecy Act.<sup>4</sup> Reporting requirements under the Bank Secrecy Act include the requirement to report suspicious transactions.<sup>5</sup> The Federal Deposit Insurance Corporation also requires that an anti-money laundering program contain the following elements: (1) a system of internal controls; (2) independent testing for compliance; (3) the designation of an individual, or individuals, to coordinate and monitor day-to-day compliance; and (4) training of appropriate personnel.<sup>6</sup>

#### Internal Policies, Procedures and Controls

Beach Bank failed to implement internal controls reasonably designed to comply with the Bank Secrecy Act. Beach Bank conducted business without effective systems and controls, as appropriate and practical, to detect and timely report suspicious activity. Specifically, the Bank did not implement adequate controls over accounts of financial institution type customers of the Bank or accounts the Bank identified as high risk. Furthermore, the Bank did not effectively monitor customer accounts and transactions to reasonably ensure timely, accurate and complete reporting of suspicious activities.

The Bank did not implement appropriate systems and controls to manage the risk of money laundering or to ensure compliance with the Bank Secrecy Act with respect to accounts of money services businesses or correspondent banks, or with respect to accounts internally identified as high-risk. In September 2004, the Bank was conducting business with approximately 40 money services businesses and six foreign correspondent banks, and it had

<sup>3</sup> 31 U.S.C. § 5318(h)(1) and 31 C.F.R. § 103.120.

<sup>4</sup> 12 C.F.R. § 326.8(b).

<sup>5</sup> 31 C.F.R. § 103.18.

<sup>6</sup> 12 C.F.R. § 328.6(c).



over 200 internally identified high risk accounts. The Bank failed to fully investigate the activity of three of its money services business customers that collectively withdrew more than \$615 million in currency from the Bank over an 18-month period in order to determine if the activity was suspicious. Based upon receipt of subpoenas from federal authorities, the Bank had prior knowledge that these customers were under investigation and was also aware of high cash transaction volumes, as evidenced by the Bank's filing of currency transaction reports. In addition, the Bank failed to review available audits of money services business customers to adequately monitor the risk of potential money laundering related to these accounts. The Bank also failed to adequately monitor accounts the Bank had identified as high risk, despite the Bank's stated policy of 100% monitoring of high risk accounts. This activity persisted over an extended period of time despite notification from the Federal Deposit Insurance Corporation and the Florida Office of Financial Regulation regarding the appropriate internal controls required to monitor high risk accounts. As a result, Beach Bank failed to timely file a significant number of suspicious activity reports as required by the Bank Secrecy Act.

The Bank did not have adequate procedures and controls to monitor funds transfers for suspicious activity. The Bank conducted in excess of \$1 billion in funds transfers over a period of 21 months, with the majority of the activity taking place in 2004. However, the Bank did not monitor wire activity to determine if the transactions were customary for the accountholder. For example, the Bank maintained the account of a telecom company that conducted approximately \$100 million in wire transfer activity in two months for phone card sales and telecommunication services. However, the file documentation did not reflect the source of funds or support the level of activity in the account. In addition, the Bank Secrecy Act Officer was unaware of the account activity and acknowledged that the account was not monitored despite the Bank's stated policy of 100% monitoring of high risk accounts.

### C. Violations of the Requirement to Report Suspicious Transactions

The Financial Crimes Enforcement Network has determined that Beach Bank violated the suspicious transaction reporting requirements of the Bank Secrecy Act and regulations issued pursuant to that Act. These reporting requirements impose an obligation on financial institutions to report transactions that involve or aggregate to at least \$5,000, are conducted by, at, or through the financial institution, and that the institution "knows, suspects, or has reason to suspect" are suspicious.<sup>7</sup> A transaction is "suspicious" if the transaction: (1) involves funds derived from illegal activities, or is conducted to disguise funds derived from illegal activities; (2) is designed to evade the reporting or record keeping requirements of the Bank Secrecy Act or regulations under the Bank Secrecy Act; or (3) has no business or apparent lawful purpose or is not the sort in which the customer would normally be expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts, including background and possible purpose of the transaction.<sup>8</sup>

Financial institutions must report suspicious transactions by filing suspicious activity reports and must generally do so no later than thirty (30) calendar days after detecting facts that

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<sup>7</sup> 31 C.F.R. § 103.18(a)(2).

<sup>8</sup> 31 C.F.R. § 103.18(a)(2)(i) - (iii).



may constitute a basis for filing such reports.<sup>9</sup> If no suspect was identified on the date of detection, a financial institution may delay the filing for an additional thirty (30) calendar days in order to identify a suspect, but in no event may the financial institution file a suspicious activity report more than sixty (60) calendar days after the date of initial detection.<sup>10</sup>

Beach Bank violated the suspicious transaction reporting requirements of 31 U.S.C. § 5318(g) and 31 C.F.R. § 103.18 by failing to timely file a substantial number of suspicious activity reports. The absence of effective internal controls and compliance oversight at Beach Bank resulted in numerous violations of the requirement to timely report suspicious transactions.

Prior to 2005, the Bank historically filed a low number of suspicious activity reports, as evidenced by a total of 18 filings between 2001 and 2004. During the period of January 1, 2005, through February 6, 2006, the Bank filed 75 initial suspicious activity reports, 67 of which were not timely filed. For example, the suspicious activity report filed on a telecom company detailed suspicious transaction activity in excess of \$1 billion and was filed approximately a year after the suspicious activity occurred. Another example of a late filed suspicious activity report filed by the Bank involved a foreign currency exchanger, with suspicious transactions totaling over \$226 million. This suspicious activity report was filed by the Bank approximately two and a half years after the activity occurred. With respect to the transactions reported in the 67 not-timely-filed reports, at or about the time of the transaction the Bank had reason to suspect that the transaction met one or more of the criteria for filing a suspicious activity report. If the Bank had implemented adequate anti-money laundering procedures, it would have been able to detect and report these suspicious activities in a timely manner. The resulting delays impaired the usefulness of the suspicious activity reports by not providing law enforcement with more timely information related to over \$1.6 billion in suspicious transactions. The Bank's procedures for monitoring, identifying, and reporting suspicious activity were inadequate. This failure to file was attributable to both weak monitoring systems and management's failure to take appropriate action when it knew, or had reason to suspect, unusual or suspicious activity was taking place.

#### IV. CIVIL MONEY PENALTY

Under the authority of the Bank Secrecy Act and the regulations issued pursuant to that Act,<sup>11</sup> the Financial Crimes Enforcement Network has determined that a civil money penalty is due for violations of the Bank Secrecy Act and the regulations issued pursuant to that Act, as described in this ASSESSMENT.

Based on the seriousness of the violations at issue in this matter, and the financial resources available to Beach Bank and the Liquidating Trust, the Financial Crimes Enforcement Network has determined that the appropriate penalty in this matter is \$800,000.

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<sup>9</sup> 31 C.F.R. § 103.18.

<sup>10</sup> 31 C.F.R. § 103.18(b)(3).

<sup>11</sup> 31 U.S.C. § 5321 and 31 C.F.R. § 103.57.

V. CONSENT TO ASSESSMENT


To resolve this matter, and only for that purpose, Beach Bank and the Liquidating Trust, without admitting or denying either the facts or determinations described in Sections III and IV above, except as to jurisdiction in Section II, which is admitted, consent to the assessment of a civil money penalty in the sum of \$800,000. This penalty assessment shall be concurrent with the \$800,000 penalty assessed by the Federal Deposit Insurance Corporation and the Florida Office of Financial Regulation, and shall be satisfied by one payment of \$400,000 to the Department of the Treasury and one payment of \$400,000 to the Florida Office of Financial Regulation.

Beach Bank and the Liquidating Trust recognize and state that they enter into the CONSENT freely and voluntarily and that no offers, promises, or inducements of any nature whatsoever have been made by the Financial Crimes Enforcement Network or any employee, agent, or representative of the Financial Crimes Enforcement Network to induce Beach Bank or the Trust to enter into the CONSENT, except for those specified in the CONSENT.

Beach Bank and the Trust understand and agree that the CONSENT embodies the entire agreement between Beach Bank, the Trust and the Financial Crimes Enforcement Network relating to this enforcement matter only, as described in Section III above. Beach Bank and the Trust further understand and agree that there are no express or implied promises, representations, or agreements between Beach Bank and the Trust and the Financial Crimes Enforcement Network other than those expressly set forth or referred to in this document and that nothing in the CONSENT or in this ASSESSMENT is binding on any other agency of government, whether federal, state, or local.

VI. RELEASE

Beach Bank and the Trust understand that their execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, constitute a complete settlement of civil liability for the violations of the Bank Secrecy Act and regulations issued pursuant to that Act as described in the CONSENT and this ASSESSMENT.

By:   
William F. Baity, Deputy Director  
FINANCIAL CRIMES ENFORCEMENT NETWORK  
U.S. Department of the Treasury

Date: 22 Dec 2006