

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

**IN THE MATTER OF
D&S CHECK CASHING, INC. and
MICHAEL ROSE**

No. MSB 99-012

**ASSESSMENT OF CIVIL MONEY PENALTIES
AGAINST D&S CHECK CASHING
AND MICHAEL ROSE**

I. INTRODUCTION

The Secretary of the United States Department of the Treasury has delegated to the Director of the Financial Crimes Enforcement Network (“FinCEN”) the authority to determine whether a financial institution has violated the Bank Secrecy Act, 31 U.S.C. §§5311 *et seq.* and 31 CFR Part 103 thereunder (“BSA”), and what, if any, sanction is appropriate.

In order to resolve this matter, and only for that purpose, D&S Check Cashing, Inc. (“D&S”) and Michael Rose (“Rose”) have each entered into a CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTIES without admitting or denying FinCEN’s determinations described in Paragraphs III or IV below, except as to jurisdiction in Paragraph II below, which is admitted.

D&S’ CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTIES, dated June 23, 2000, is incorporated herein by this reference. Rose’s CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTIES, dated June 23, 2000, is incorporated herein by this reference.

II. JURISDICTION

D&S is and was at all relevant times, a licensed check casher located in Newark, New Jersey and is a “financial institution” within the meaning of 31 U.S.C. §5312(a)(2) and 31 CFR §103.11(n). D&S, operating out of one location, liquidates approximately \$70 million in checks annually. Depending on the type of check, D&S charges a fee of between ½% to 2% of the amount of the check.

Rose is and was at all relevant times, an owner, officer, and the manager of D&S.

III. FINCEN'S DETERMINATIONS

A. Failure to File Currency Transaction Reports

FinCEN has determined that in 1994, D&S willfully failed to file Currency Transaction Report ("CTR") forms for over 200 currency transactions exceeding \$10,000, as required by 31 CFR §103.22, promulgated under §5313 of the Bank Secrecy Act. D&S deposited these checks into one of three accounts which Rose attempted to conceal from the Internal Revenue Service Examination Division ("IRS Exam") during a BSA compliance examination. Approximately 70 of the 200 checks for more than \$10,000, for which D&S did not file CTRs, were cashed by a long-time customer who has been charged with perpetrating a fraud against the United States.

B. Recordkeeping Violations

FinCEN has determined that in 1994, D&S willfully failed to keep certain records required by 31 CFR §103.28 in connection with checks it cashed for more than \$10,000. The BSA requires that D&S verify and record, among other things, the "name and address of the individual presenting a transaction." D&S failed to record this required information for checks that it cashed for more than \$10,000.

C. Willful Violations by D&S and Willful Participation by Rose

D&S and Rose knew or were reckless in not knowing that the BSA required D&S to file CTRs when it cashed checks for over \$10,000. During a BSA compliance examination conducted by the IRS Exam, Rose failed to disclose the existence of three bank accounts, including the account in which D&S deposited all checks it cashed for more than \$10,000. In addition, D&S and Rose knew or were reckless in not knowing that the BSA required D&S to verify and record certain information for customers cashing checks for more than \$10,000.

In effect, D&S followed a course of conduct for reportable transactions that included depositing them in a separate account that was not disclosed to IRS Exam, failing to keep the records required by the BSA, and not keeping copies of reportable transactions in the same manner as non-reportable transactions. Therefore, FinCEN has determined that D&S willfully violated the BSA when it failed to file the CTRs and failed to keep records as described above. FinCEN has also determined that, as an owner and manager of D&S, based on the conduct described above, Rose willfully participated in D&S' violations.

IV. CIVIL MONEY PENALTY

FinCEN has determined that by failing to file CTRs and failing to keep certain records as described in Paragraph III above, D&S willfully violated the currency reporting

and recordkeeping provisions of the BSA and a civil money penalty is due pursuant to 31 U.S.C. §5321 and 31 CFR §103.47(c) and (f).

FinCEN has determined that through the actions described in Paragraph III above, Rose willfully participated in D&S' violations of the BSA and a civil money penalty is due pursuant to 31 U.S.C. §5321 and 31 CFR §103.47(c) and (f).

V. ASSESSMENT AGAINST D&S

THEREFORE, the Department of the Treasury assesses against D&S a civil money penalty of \$75,000.

By its execution of its CONSENT, D&S, without admitting or denying FinCEN's determinations described in Paragraphs III and IV above, except as to jurisdiction in Paragraph II, which is admitted, consents to the assessment of a civil money penalty in the sum of \$75,000.

D&S shall, under the terms of its CONSENT:

1. Pay the amount of \$75,000 within five (5) business days of the date of this ASSESSMENT.
2. Such payment shall be:
 - a. made by certified check, cashier's check, or money order;
 - b. made payable to the United States Department of the Treasury;
 - c. hand-delivered or sent by overnight mail to Nicholas A. Procaccini, Assistant Director and Chief Financial Officer, FinCEN, P.O. Box 39, Vienna, Virginia 22183; and
 - d. submitted under a cover letter, which references the caption and file number in this matter.

VI. ASSESSMENT AGAINST ROSE

THEREFORE, the Department of the Treasury assesses against Rose a civil money penalty of \$50,000.

By execution of his CONSENT, Rose, without admitting or denying FinCEN's determinations described in Paragraphs III and IV above, except as to jurisdiction in Paragraph II, which is admitted, consents to the assessment of a civil money penalty in the sum of \$50,000.

Rose shall, under the terms of his CONSENT:

1. Pay the amount of \$50,000 within five (5) business days of the date of this ASSESSMENT.
2. Such payment shall be:
 - a. made by certified check, cashier's check, or money order;
 - e. made payable to the United States Department of the Treasury;
 - f. hand-delivered or sent by overnight mail to Nicholas A. Procaccini, Assistant Director and Chief Financial Officer, FinCEN, P.O. Box 39, Vienna, Virginia 22183; and
 - g. submitted under a cover letter, which references the caption and file number in this matter.

VII. RELEASE

D&S and Rose's execution of their CONSENTS and their compliance with both the terms of their CONSENTS and the terms of this ASSESSMENT OF CIVIL MONEY PENALTIES constitute a complete settlement of civil liability for any reporting or recordkeeping violations of the BSA which were identified by FinCEN in its letters to D&S and Rose respectively, dated October 6, 1999.

By: //signed// James F. Sloan
James F. Sloan, Director
FINANCIAL CRIMES ENFORCEMENT NETWORK
U.S. DEPARTMENT OF THE TREASURY

Date: June 29, 2000