

Main Identity

From: "David Landsman" <david@nmta.us>
To: "Leon Mitchell" <LMitchell@jnglobal.com>; "Jim Wells" <jrwells@erols.com>; "William C. Sellery, Jr." <wsellery@selleryinc.com>; "Andreassen, Kristine" <Kristine.andreassen@bryancave.com>; "Asaduzzaman, Kazi" <asad02@msn.com>; "Coleman, Joseph" <JColeman@RiteCheck.com>; "Cornell, Jim" <jcornell@nexxargroup.com>; "D'Acosta, Alexandra" <adacosta2@mail.riafinancial.com>; "Delzoppo, Lorenzo" <Lorenzo.Delzoppo@girosol.com>; "Doyle Joe" <ccusa@compuserve.com>; "Evans, Walter" <wevans@acecashexpress.com>; "Gagerman, Jerry" <JGagerman@comcast.net>; "Gary Dachis" <gdachis@aol.com>; "Gerry Goldman" <GeraldGCC@aol.com>; "Guerrero, Jorge" <jguerrero@compliancecounsel.us>; "Gutierrez, Carlos" <carloscgut@aol.com>; "Haider, Tom" <thaider@moneygram.com>; "Jeff Silverman" <jeff@USANFSC.com>; "Kotary, Kyle" <kkotary@eric.mower.com>; "Levine, Ezra" <levinee@howrey.com>; "Masino, Lois" <lloey@aol.com>; "McCartney, Diane" <dmccartney@acecashexpress.com>; "Myers, Ricky" <MYERS8003@aol.com>; "Nader, George" <nader@rileydever.com>; "Norrington, Eric" <enorrington@acecashexpress.com>; "Ram, P.J." <ram@wallstreetfinance.us>; "ReVeal, John" <jreveal@pogolaw.com>; "Rick Lyke" <rlyke@eric.mower.com>; "Samuel, Joe" <joe.samuel@firstdatacorp.com>; "Shipowitz, Jay" <jshipowitz@acecashexpress.com>; "Trujillo, Mario" <mtrujillo@vigousa.com>; "Van Cleef, Carol R." <Carol.vancleef@bryancave.com>; "Vihstadt, Mary" <mvihsstadt@aol.com>
Sent: Friday, April 29, 2005 2:43 PM
Subject: 11th Hour Efforts

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Dear Friends and Members,

The Honorable (indeed!) Asm. Jose Peralta's office has informed me that JPMorganChase has agreed to another 30-day extension. Unfortunately, North Fork has proven to be a more difficult case. I have spoken to many people today, trying everything I could, and finally spoke with Wm. Langford who said he would look into it, without any promises. The bottom line remains that, under current law or the lack thereof, no bank can be forced to take any customer, nor is it illegal to deny a category or an individual customer. The other side of the equation has not changed either: no regulator will ever tell or even ask a bank to accept any particular customer or class of customer. and of course the details of what goes on behind closed doors will never be fully clear to us from either party.

North Fork is still claiming that due to pressure from the FDIC, or somehow motivated by the FDIC, North Fork is unable to relent on their decision to generically and categorically close all MSB accounts today, even for a 30-day extension. One would not expect Mr. Kanas to go into any detail about possible deficiencies in North Fork's procedures that may have contributed to this situation.

The FDIC for their part, said that they never told North Fork that they had to close all MSB accounts, so this must be their decision made for business reasons.

I am sure the complete truth lies somewhere between these two statements but, as I said before, we will never get them both in the same room at the same time, so this game of he-said-she-said is not productive for us since we will never know all the facts and it wouldn't help us right now anyway, due to the fundamental laws and principles of agnosticism involved.

My plea to Mr. Langford was more along the lines of: since the Guidelines are slowly working (with other banks), a 30-day extension with North Fork at this point would really make a world of difference and, in the spirit of the Guidelines, couldn't a friendly phone call from the FDIC be made, that would smooth the way for this one little compromise, regardless of any of the above issues, because innocent licensed businesses, who did nothing wrong, will suffer irreparable harm with these closings

I am sorry I could not bring better news before the end of the day, but I am still hoping something will change by Monday morning.

Regards,

-David

David Landsman

Executive Director

National Money Transmitters Association, Inc.

12 Welwyn Road, Suite C

Great Neck, NY 11021

(917) 921-9529 Cell

(516) 829-2742 Phone

(516) 706-0203 eFax

david@nmta.us

From: Leon Mitchell [mailto:LMitchell@jnglobal.com]

Sent: Friday, April 29, 2005 9:35 AM

To: Jim Wells; William C. Sellery, Jr.; Andreassen, Kristine ; Asaduzzaman, Kazi; Coleman, Joseph; Cornell, Jim; D'Acosta, Alexandra; Delzoppo, Lorenzo ; Doyle Joe; Evans, Walter; Gagerman, Jerry ; Gary Dachis; Gerry Goldman ; Guerrero, Jorge ; Gutierrez, Carlos ; Haider, Tom; Jeff Silverman; Kotary, Kyle; Landsman, David; Levine, Ezra; Masino, Lois ; McCartney, Diane; Myers, Ricky; Nader, George ; Norrington, Eric; Ram, P.J.; ReVeal, John; Rick Lyke; Samuel, Joe; Shipowitz, Jay; Trujillo, Mario; Van Cleef, Carol R.; Vihstadt, Mary

Subject: RE: FiSCA: FINCEN Guidance docs

Jim

I totally agree with your comments, we have to act now and faster in bringing together our position other wise they will undermine the good work we have done to date. They are embarrassed and will not sit back and do nothing.

Can we all meet earlier than June; perhaps a teleconference call can be set-up to discuss our plan of action. We need an agenda itemizing all of the issues and minutes taken.

Leon

From: Jim Wells [mailto:jrwells@erols.com]

Sent: Thursday, April 28, 2005 9:02 PM

To: Leon Mitchell; William C. Sellery, Jr.; Andreassen, Kristine ; Asaduzzaman, Kazi; Coleman, Joseph; Cornell, Jim; D'Acosta, Alexandra; Delzoppo, Lorenzo ; Doyle Joe; Evans, Walter; Gagerman, Jerry ; Gary Dachis; Gerry Goldman ; Guerrero, Jorge ; Gutierrez, Carlos ; Haider, Tom; Jeff Silverman; Kotary, Kyle; Landsman, David; Levine, Ezra; Masino, Lois ; McCartney, Diane; Myers, Ricky; Nader, George ; Norrington, Eric; Ram, P.J.; ReVeal, John; Rick Lyke; Samuel, Joe; Shipowitz, Jay; Trujillo, Mario; Van Cleef, Carol R.; Vihstadt, Mary

Subject: Re: FiSCA: FINCEN Guidance docs

Leon,

This is extremely sad, but not unexpected news.

The thought occurs to me that an artfully crafted letter to Senator Shelby and released to the media could lay this situation at the feet of FinCEN and the other federal regulators. The actions requested of the regulators by Gerry Goldman and David Landsman at Tuesday's Senate Hearing could have prevented these businesses from having their accounts closed. (David specifically forecast this event.) Yet, the regulators who professed to the Sub-Committee that they would do something, instead chose to do nothing. And now innocent businesses will have their livelihoods jeopardized, because these same regulators allowed their regulations to be misapplied.

Individually and collectively, I fear we can do little to fight these actions. Because the secrecy of the banking industry allows banks and regulators to escape criticism for their actions so long as they say the right things in public. (This is why it took decades for Congress to finally pass the Community Reinvestment Act to stop Redlining. It wasn't until discriminatory lending practices became so egregious, that Congress acted to force bank regulators to make banks serve the credit needs of communities where they sourced deposits. And now regulators are trying to wriggle out of those strictures.)

For us to have any impact on situations such as this, it is my belief that we must take it upon ourselves to see that the actions of banks and regulators are made public and shown to be in direct contrast to their public statements, and perhaps more importantly, the best interests of consumers. Then, we give the court of public opinion an opportunity to work on our behalf. It may not always work, but it might cause banks and regulators to give more consideration to the potential reputational risks of their actions.

Jim

----- Original Message -----

From: [Leon Mitchell](#)

To: [Jim Wells](#) ; [William C. Sellery, Jr.](#) ; [Andreassen, Kristine](#) ; [Asaduzzaman, Kazi](#) ; [Coleman, Joseph](#) ; [Cornell, Jim](#) ; [D'Acosta, Alexandra](#) ; [Delzoppo, Lorenzo](#) ; [Doyle Joe](#) ; [Evans, Walter](#) ; [Gagerman, Jerry](#) ; [Gary Dachis](#) ; [Gerry Goldman](#) ; [Guerrero, Jorge](#) ; [Gutierrez, Carlos](#) ; [Haider, Tom](#) ; [Jeff Silverman](#) ; [Kotary, Kyle](#) ; [Landsman, David](#) ; [Levine, Ezra](#) ; [Masino, Lois](#) ; [McCartney, Diane](#) ; [Myers, Ricky](#) ; [Nader, George](#) ; [Norrington, Eric](#) ; [Ram, P.J.](#) ; [ReVeal, John](#) ; [Rick Lyke](#) ; [Samuel, Joe](#) ; [Shipowitz, Jay](#) ; [Trujillo, Mario](#) ; [Van Cleef, Carol R.](#) ; [Vihstadt, Mary](#)

Sent: Thursday, April 28, 2005 2:33 PM

Subject: RE: FISCA: FINCEN Guidance docs

Dear All I have just been informed that Northfolk Bank have submitted names of MSB that they will not be doing business with to the New York State Banking Department. This list was provided whether or not you received a letter from the bank. I spoke to the New York Banking department and they have added a caveat, and I quote "If you do not have bank account in New York your licence will be revoked" If have new banking arrangements you will have to write to the State Banking department conforming this arrangement.

This is not over (Jim as you expected) I urge that we continue to pressure we need to get our message to the banks as soon as possible.

Regards

Leon

From: Jim Wells [mailto:jrwells@erols.com]

Sent: Thursday, April 28, 2005 12:42 PM

To: Leon Mitchell; William C. Sellery, Jr.; Andreassen, Kristine ; Asaduzzaman, Kazi; Coleman, Joseph; Cornell, Jim; D'Acosta, Alexandra; Delzoppo, Lorenzo ; Doyle Joe; Evans, Walter; Gagerman, Jerry ; Gary Dachis; Gerry Goldman ; Guerrero, Jorge ; Gutierrez, Carlos ; Haider, Tom; Jeff Silverman; Kotary, Kyle; Landsman, David; Levine, Ezra; Masino, Lois ; McCartney, Diane; Myers, Ricky; Nader, George ; Norrington, Eric; Ram, P.J.; ReVeal, John; Rick Lyke; Samuel, Joe; Shipowitz, Jay; Trujillo, Mario; Van Cleef, Carol R.; Vihstadt, Mary

Subject: Re: FISCA: FINCEN Guidance docs

Dear Leon

I agree. I think a fundamental issue at work in the account discontinuance disaster is the question of the legitimacy and importance of non-bank financial intermediaries (NBFIs) within the nation's financial services industry. I can't help but feel that the derogatory and inflammatory language that regulators have used towards NBFIs in the last 5 to 10 years indicates a mindset that was predisposed to using the misapplication of regulation to drive NBFIs from existence. Additionally, I think the existence of NBFIs have been a constant reminder to banks of the areas where they fail to serve the needs of the population.

The type of educational meetings you describe, telling the REAL STORY of LICENSED, PROFESSIONAL MSBs, aimed at banks, regulators, legislators, the media and CONSUMERS, will result in a new realization of the importance of NBFIs as a different, yet indispensable, channel for delivering consumer financial services, just as credit unions are different from commercial banks.

Taking the educational presentation to business organization would sensitize them to the awesome and virtually unchecked power that banks have to cripple American businesses at whim. Today MSBs - tomorrow Middle Eastern restaurants - the day after . . . who knows?

I'm ready to go when you are!

Jim

----- Original Message -----

From: [Leon Mitchell](#)

To: [Jim Wells](#) ; [William C. Sellery, Jr.](#) ; [Andreassen, Kristine](#) ; [Asaduzzaman, Kazi](#) ; [Coleman, Joseph](#) ; [Cornell, Jim](#) ; [D'Acosta, Alexandra](#) ; [Delzoppo, Lorenzo](#) ; [Doyle Joe](#) ; [Evans, Walter](#) ; [Gagerman, Jerry](#) ; [Gary Dachis](#) ; [Gerry Goldman](#) ; [Guerrero, Jorge](#) ; [Gutierrez, Carlos](#) ; [Haider, Tom](#) ; [Jeff Silverman](#) ; [Kotary, Kyle](#) ; [Landsman, David](#) ; [Levine, Ezra](#) ; [Masino, Lois](#) ; [McCartney, Diane](#) ; [Myers, Ricky](#) ; [Nader, George](#) ; [Norrington, Eric](#) ; [Ram, P.J.](#) ; [ReVeal, John](#) ; [Rick Lyke](#) ; [Samuel, Joe](#) ; [Shipowitz, Jay](#) ; [Trujillo, Mario](#) ; [Van Cleef, Carol R.](#) ; [Vihstadt, Mary](#)

Sent: Thursday, April 28, 2005 12:17 PM

Subject: RE: FiSCA: FINCEN Guidance docs

Dear Jim thanks for the info. I agree that need to make contact and establish a position that say we are also interested in fighting AML efforts.

I read with interest the advisory sent out by "FINCEN" it was very encouraging and has given the MSB hope, with the banking industry. I would like to suggest that we now pull together all the salient points example meetings attended, statements made by us and by our supporters etc...inclusive of the recent advisory guideline and turn this into a presentation for members to take to the banks my objective is that we all go to the banking community with the same message. I understand that the cover letter would be different.

If we need to bring in an expert to do this I will support this decision.

Your thought would be appreciated.

Leon

From: Jim Wells [mailto:jrwells@erols.com]

Sent: Thursday, April 28, 2005 9:25 AM

To: William C. Sellery, Jr.; Andreassen, Kristine ; Asaduzzaman, Kazi; Coleman, Joseph; Cornell, Jim; D'Acosta, Alexandra; Delzoppo, Lorenzo ; Doyle Joe; Evans, Walter; Gagerman, Jerry ; Gary Dachis; Gerry Goldman ; Guerrero, Jorge ; Gutierrez, Carlos ; Haider, Tom; Jeff Silverman; Kotary, Kyle; Landsman, David; Levine, Ezra; Masino, Lois ; McCartney, Diane; Leon Mitchell; Myers, Ricky; Nader, George ; Norrington, Eric; Ram, P.J.; ReVeal, John; Rick Lyke; Samuel, Joe; Shipowitz, Jay; Trujillo, Mario; Van Cleef, Carol R.; Vihstadt, Mary

Subject: Re: FiSCA: FINCEN Guidance docs

Importance: High

In case you haven't seen this article already.

I think this is another legislative constituency that this Coalition needs to contact directly to offer its assistance in fighting money laundering and terrorist financing. Unlikely that FinCEN or the bank regulators informed these

Congressmen that MSBs were already active in supporting the nation's AML efforts. Especially, since their bank accounts were being closed and they were being forced out of business -- all of which would drive money transfer activities underground and out of reach of regulators. Jim

Lawmaker Seeks Better Compliance on Laundering

American Banker

Wednesday, April 27, 2005 □

By [Damian Paletta](#)

WASHINGTON - Sen. Norm Coleman, R-Minn., defended current anti-laundering laws Tuesday as a useful weapon against financial criminals and terrorists, and he advised banking companies to focus more on compliance.

"I know that some have concerns about privacy under the Bank Secrecy Act, but I think it's reasonable to say that privacy gives way in our society when it's likely some crimes have been committed," he said in a luncheon speech here to the Federalist Society.

As the chairman of the Senate subcommittee on permanent investigations, Sen. Coleman, along with another subcommittee member, Sen. Carl Levin, D-Mich., led an investigation into the relationship between Riggs National Corp. and the former Chilean dictator Augusto Pinochet. Last month the subcommittee issued a report criticizing bankers and their regulators for not doing enough to prevent the transfer of suspect funds.

"You have an obligation to know that there is a legitimate source" for money that is being deposited, Sen. Coleman said. "If you are actively seeking to subvert that, that's a problem."

Bankers have said they are getting mixed messages from regulators and law enforcement officials on one of the industry's most polarizing issues, but Sen. Coleman made it clear that legislators will be hesitant to relieve any alleged regulatory burden.

"My sense is that most financial institutions - I assume - want to do their part in fighting the war on terror, and regulators should do all they can to provide clear guidance and concise instructions," he said. "On the other hand, I do have to say that financial institutions need to do a better job of complying with the regulations."

Sen. Coleman acknowledged that banks were filing defensive suspicious-activity reports. He said one solution could be better technology to sort through the reports.

"I think we've got to get better at processing information, but I've got to tell you, there is a sense of, 'Let us not be the one who somehow has failed to report something or has failed to follow up,' " he said.

Sen. Coleman also said federal authorities were putting so much of their resources into enforcing anti-laundering laws at banks that they could be overlooking problems with unregulated nonbanks.

"While regulatory agencies are overextended trying to maintain adequate oversight of banks - and history indicates that there is vast room for improvement - then the challenge of preventing abuse of nonbanked money-service businesses is enormous, and I think we need to look at that," he said.

During a panel discussion before Sen. Coleman spoke, Robert Pasley, the Office of the Comptroller of the Currency's assistant director of enforcement and compliance, said his agency did not have a "zero-

tolerance policy" in enforcing anti-laundering rules.

"There is no knee-jerk reaction to flaws a bank might have in its system," Mr. Pasley said. "Every bank is going to have flaws." The agencies have cited banks for inadequate anti-laundering programs, he said.

Also Tuesday, Treasury Secretary John Snow asked Congress for a 2.4% increase in funding for the Financial Crimes Enforcement Network, to \$73.6 million.

"This increase will provide Fincen with the funding needed to enhance its outreach efforts to financial institutions newly covered by Bank Secrecy Act regulations and strengthen examination and enforcement activities; strengthen analytical support services; and expand Fincen's support to other international financial intelligence units to facilitate information exchange," Mr. Snow said.

Michele Heller contributed to this article.

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James R. Wells, Jr.
Wellspring Consulting
*Expanding Access to Financial Services
for Underserved Populations*
520 S.E. Fifth Avenue, Suite 1712
Fort Lauderdale, Florida 33301 USA
+01.954.462.3430
*"The only way to successfully predict the future
is to create it"*