

In plain English, [money laundering] is making dirty money clean by concealing the true origin of the funds.

— Chairman James R. Zazzali

INTRODUCTION

Narcotics traffickers make thousands of dollars a day in cash peddling poison on the streets. One of their biggest problems is how to use that money without alerting law enforcement or tax officials to the illegal activity that generated it. Similarly, loan sharks and gambling operatives earn substantial amounts of cash, but have to find ways to hide the source of their income in order to be able to use it. The various stratagems used to conceal the money and protect the illegal sources from which it is derived are commonly called money laundering.

For generations, organized criminals have owned or controlled cash-intensive businesses such as juke box and vending machine distributorships, candy stores, and restaurants or taverns, primarily so that they can commingle receipts from those enterprises with cash generated by gambling, narcotics trafficking or loansharking. When illegal revenue is mixed with the legal, revenue agents are less likely to find evidence of tax evasion.

With their illicit income laundered, the more sophisticated gangsters invest their funds in legitimate businesses and are then free to spend as lavishly as they can afford on material pleasures. Sometimes they are even able to buy respectability and thus mingle with the social elite and public officials of the highest rank, their friends often having no hint of the true source of their

wealth.

It is easy to forget that despite all the colorful nonsense surrounding organized criminals, the reason they organize in the first place is not simply to create another service club. It is to take better advantage of their neighbors and of society in order to make as much money as possible, quickly and easily. They try to get an unfair edge on their competitors, they flout the rules of society, they subject themselves only to a twisted moral code of their own — when it serves their purposes. And only they decide when the code applies.

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Since passage of the Bank Secrecy Act in 1970, banks and other financial institutions have been required to file with the Internal Revenue Service Currency Transaction Reports (CTRs) for every payment, receipt or transfer of currency in excess of \$10,000. (A more recent amendment broadened the requirement to include all monetary instruments as well as currency.) Although drafted primarily to find tax violations involving the non-reporting or under-reporting of income, the CTR requirement has also resulted in the detection of large cash flows indicative of significant financial criminality by individuals and organized crime groups. Thus, those who once might simply have deposited their illegal profits from criminality into banks could no longer do so with impunity.

Until October 1986, money laundering itself was not a crime. The federal government prosecuted offenders only for failure to file CTRs and for whatever underlying crime to which such failures led prosecutors. But the Money Laundering Control Act of 1986 criminalized money laundering and schemes that facilitated it. A high ranking Department of Justice official told a congressional committee last May, “The Bank Secrecy Act was not enough, standing alone, to combat money laundering. Rather, it was necessary to make the handling of dirty money a crime in itself.”

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The Commission held a two-day public hearing on money laundering on December 9 and December 14, 1993. The first day’s witnesses were federal officials, who discussed money laundering from the perspective of the agencies they represented. The witnesses the second day were state and county officials from New Jersey as well as an official from the state attorney general’s office in Arizona, which enacted the first state money laundering statute in the nation in 1985, predating even the federal statute.

I

THE WITNESSES

The first witness was **Michael Orndorff**, Chief of the Data Analysis Division at the Financial Crimes Enforcement Network (FinCEN) of the U.S. Treasury Department. A former financial expert with the federal Drug Enforcement Administration, Orndorff noted that “with the possible exceptions of crimes of passion, money is the motivation for most criminal activity. Money is one of the most vulnerable points in any criminal conspiracy.”

Money laundering, Orndorff said, is accomplished in three stages: placement, layering and integration. Placing the money in a financial institution without attracting the attention of law enforcement is the first stage in the money laundering process and often the most vulnerable to attack. This stage is affected by the attempt to dispose or conceal the bulk cash generated by an illicit act. Therefore, disposal of the bulk cash poses the single most critical challenge for the money launderer. It is at this time that “...the criminal is most vulnerable, because he or she has in the back of their car a briefcase or whatever with \$100,000, \$200,000 and he or she has to get their money into the financial system,” Orndorff said.

Orndorff said one of the primary methods to get the money into the financial system is a practice called “smurfing,” named for the small, blue cartoon characters called “Smurfs” in a 1980s television series. In the money laundering context, smurfing is the practice of dividing a

large amount of cash among several low-level persons, each of whom goes to a different financial institution to purchase monetary instruments in amount of less than \$10,000 in order to circumvent the reporting requirements of the Bank Secrecy Act. “Smurfing” is also called structuring since deposits are “structured” in amounts totalling less than \$10,000.

Another way to get money into the system, Orndorff said, is for a cash-intensive business such as an amusement park or a grocery store, for which a bank legitimately can provide a CTR exemption for a certain amount of money, to deposit funds in an amount up to that threshold without the transaction being reported.

Drug traffickers who smuggle cash out of the United States have to be concerned with the sheer weight of the money, Orndorff said. One million dollars in twenty-dollar bills, he said, weighs 100 pounds.

... [D]rug offenders will go into financial institutions or what we call non-bank institutions such as check cashers and money transmitters, and exchange street money for one hundred-dollar bills. Now, his [money's] weight is 20 pounds [and] he can put it into a small briefcase and walk away with it very easily.

Once the money is placed into the financial system, it is moved, in the layering phase, through various accounts to create an illusion of legitimate transactions but which really creates a barrier so that investigators are unable to follow a paper trail. Generally, the funds are moved to

tax-haven countries where investigators have no access to bank records. One of the ways to layer a transaction, Orndorff said, is through an international wire transfer. Orndorff said that shortly before coming to Trenton, he obtained some data indicating that there is approximately \$900 million transferred daily through the international transfer system, making it difficult to track transfers from individuals on a regular basis.

There was a case a few years back concerning a gentleman named Jose Gonzalo, who was killed by the Colombian authorities. A few years back they found buried in the ground a few barrels with his financial records.... His records showed the entire money laundering operation. His money had been placed into accounts in Colombia, [from] the United States through a series of wire transfers. He had layered the transactions. He would take his money and move it — wire transfer \$50,000 from an account in Colombia to an account in London. A few days later, \$25,000 of that money would be transferred to Hong Kong. Three or four days later, \$25,000 from that account would be transferred to Austria. He was moving the money around so that if law enforcement happened to seize his records, his money would not be easily seized or identified. Unfortunately for him, we did manage to seize many millions of dollars in the United States and in foreign countries.

The third phase of money laundering is integration, which Orndorff said investigators rarely see because the money is totally hidden and well-insulated through placement or layering.

When you put money into an account, for example, you may be putting money into the account of a legitimate business and you are commingling the bad money and the good money....

Some of the ways in which you shield the money is [to] purchase assets in the name of bearer corporations, shell corporations ... with no real business, normally in a tax-haven country. You could have the corporation be a bearer-share corporation, whoever holds the share is actually the owner of the corporation. It is very difficult when the money launderer, for example, produces documents showing that he has a loan from a foreign corporation and it has been notarized by attorneys and notary publics and so forth.... [Unless you] bring that attorney to the United States as a witness [,i]t is very difficult to prove that there was any activity.

Mary Medina, Chief of the Examination Division for the Internal Revenue Service in Newark, testified in the public hearing, saying that

the IRS views money laundering very broadly. Any activity or practice used to conceal or disguise the existence and origin of profits or money generated, whether from legal sources or illegal sources, is a money laundering concern for us.

We know from experience that millions upon millions of dollars of profits from legitimate business escape taxation due to skimming and other evasion schemes, and that millions of dollars of profits from illegal activities likewise escape taxation. Our goal then is to combat the money laundering as well as detect the underlying tax evasion.

Our approach in the money laundering area is three-fold: assuring compliance with the information reporting requirements of the Bank Secrecy Act, assuring effective use of the currency and banking retrieval system by all (IRS) enforcement divisions — Examination, Collection and Criminal Investigation — and criminal enforcement under the money laundering criminal statute.

In answer to questions by Commission Counsel Charlotte K. Gaal, Medina said:

We believe that New Jersey is a prime location for money laundering. The reasons include the fact that we have international airports in close proximity to seaports. We are in close proximity to New York City's financial center.

. . . .

Q. Has the art of money laundering changed over time?

A. The art of money laundering is in a continual state of change. Where

once we concentrated our efforts on the deposits of large sums of money into traditional financial institutions, experience has shown us that we now must focus our efforts toward less traditional methods of money laundering, such as the use of nonbank financial institutions — for example, wire transfers, check cashing businesses and those who sell money orders.

Q. What forms does money laundering often take today?

A. We have found two emerging trends in money laundering in the State of New Jersey, those being the use of wire transfers to move monies offshore and the purchase of substantial assets with cash, often with the intent to resell the assets overseas.

Q. Are there any examples that you can give us of those types of money laundering you have seen in New Jersey?

A. We have found cases of money being laundered through the cash purchase of luxury items such as automobiles, which are then shipped overseas in containers and sold for nearly double the U.S. price. We also found farm equipment, tractors specifically, which were purchased for cash in the United States, shipped to another country to be used there for farming of drug crops, which were then subsequently smuggled back into the U.S.

Q. Are you seeing bars and liquor stores used in money laundering in New Jersey?

A. *We have identified bars and grocery stores that are cashing checks on a regular basis. Often these check cashing activities are more substantial in scope than the principal business activity. For example, we have found neighborhood bars which generate yearly gross receipts of less than \$300,000 and cash millions of dollars worth of checks from their customers. No fee is reported by these establishments for having cashed those checks as business income on their tax return. We are concerned about that, plus the potential that bar customers may well be avoiding banks or licensed regulated check cashers for the purpose of laundering profits from legal or illegal activities and avoiding the payment of substantial state and federal taxes.... We have found the use of liquor stores and bars to cash checks to be particularly prevalent in heavily populated areas.*

Q. *We have a large casino industry in the state. Has the IRS seen money laundering in the casinos of New Jersey?*

A. *Prior to the enactment of the law making casinos responsible for filing CTRs, it was alleged that individuals would carry bulk volumes of currency into the casinos to be converted into checks. Suitcases of cash would be deposited at the casino cage, limited gambling undertaken and monies withdrawn with a casino check, making the amounts appear legitimate.*

As a result of our activity in the casino area, including our compliance checks, it appears that such types of illegal activities no longer occur, at least not in a blatant manner. Moreover, casino employees now contact the IRS with respect to suspicious activity and, also, CTR filings have substantially increased.

Medina said that non-bank institutions and businesses such as taverns and groceries have been identified as major check-cashing locations. In addition, travel agencies are now wiring money offshore and issuing travelers' checks for those who want to move money around the world. "Check cashers and money remitters are the fastest growing, most mobile and most difficult to identify," she said.

Asked by Counsel Gaal about money remitters, she said they "are quasi-banks licensed by the State of New Jersey with limited regulations. We have found examples of individuals wiring more monies overseas than is reported to either the state or the federal government as income on their [tax] returns. And these situations, we believe, represent substantial revenue loss to our treasuries."

Q. I think you discussed check cashers to a fair degree. Is there anything else that you wish to add in regard to check cashers in terms of the kinds of problems the IRS sees or what is going on with check cashers?

A. The only thing that I want to add is we are seeing increased problems with checks made payable to businesses being charged at check cashers by third parties, and

that represents a significant potential for unreported income.

Regarding state-federal cooperation, Medina said:

I see no alternative but for the state and federal authorities to work on the problem. Individually, our resources are not sufficient to address money laundering, evasion of tax and nonpayment of tax. Together, I think we have potentially far more significant impact on this area which is a major area of tax-administration concern. Moreover, together, I think we need to explore not only enforcement methods for addressing the problem, but nonenforcement techniques such as legislation, licensing, regulations and education.

Medina also said the tax implications from the underreporting of income from the sale of narcotics and the underreporting of income that has been used to purchase narcotics are substantial.

One need only read of the street value of narcotics that are seized to recognize that there are potentially millions, if not billions, of tax dollars linked to the narcotics trade which never find their way into state or federal treasuries. Additionally, you add to that the profits evading taxation from legitimate businesses and the amount is staggering. In our opinion, money laundering is a serious problem, not only for New Jersey but the United States as well.

She estimated that nationally, billions of tax dollars are lost each year to money launderers.

Medina had four recommendations for the Commission:

1. *Currently, the State regulations for check cashers require a license only if a fee is charged for the service. We would recommend that any business that cashes checks as a secondary part of operations, whether or not a fee is charged, would be included in the definition of a check casher for state regulatory and recordkeeping purposes.*
2. *Second, any entity which sells money orders, travelers' checks or which wires funds domestically or internationally should be subjected to state regulation. We recommend that the State recordkeeping requirements currently in place for licensed check cashers be extended to include these types of operations.*
3. *As I mentioned previously, we also found significant underreporting of income when business checks are cashed at a check-cashing establishment by a third party. We would recommend that New Jersey consider a law similar to the practice of many New York financial institutions which prohibit checks made payable to businesses being cashed at secondary financial institutions.*

4. *And finally, if legislation is enacted to impose penalties and/or fines in the money laundering area, the federal/state exchange agreement, which is working well in a number of areas, should be expanded to include exchange of information resulting from these examinations and investigations.*

Jerome Gatto, a supervisory special agent of the Federal Bureau of Investigation, told the Commission that money laundering statutes

give us an opportunity to attack higher level people in [a criminal] organization who would normally not be culpable under the substantive statute.... In addition, ... one of the primary characteristics of the law is to provide the taking away of the profits to the organization itself.

Gatto discussed a recent case involving money laundering by insurance brokers:

We uncovered approximately 293 accounts, domestically and internationally, 53 shell corporations, which involves a family business set up as a medical malpractice insurance business that essentially was insuring against that type of casualty, but never making any payments. The result was that when a time came for payment, [it was] usually never made and created liability in excess of 9,000 outstanding claims worth about \$60 million.

. . . .

[B]y the use of what I would call a shell of a bank or really a paper bank over seas they ... repatriated money back to the United States through bogus loans to themselves.

Agent Gatto had several recommendations:

One would be to review the financial access laws for the state and make certain that they are coordinated with any money laundering statute. That is to say, to ensure the access of the financial documents are within the purview of the investigator. I would also recommend ... early training for investigators.... Generally there is a one- to three-year lag time from the passage of a statute before anyone is really charged with the violation of that statute. And I would recommend a reorientation of the investigators to look beyond the substantive violations which they are familiar with to the next level of the onion, so to speak, which involves money laundering.... [t]he reorientation of the investigator should indicate that from the very outset, money laundering should be a principal part of the investigation....

Then-United States Attorney for New Jersey **Michael Chertoff** told the Commission that

... money is the weakest point in the [criminal] chain. And that's the incentive for the people at the top of the chain that are repatriating the money back. It is a very difficult problem because of the sheer volume of cash that they have to dispose of.

In recognition of this, Congress ... in the 1980s beefed up the money laundering laws and law enforcement beefed up its attack on the transmission of the money here back from overseas.... We have been running a race with traffickers and the organized crime figures ever since. We have been frustrating them and they have been getting more sophisticated. I don't view that as a sign that we are losing the battle. They are going to keep ahead of us, but it is more and more difficult and more and more expensive.

The United States is now the largest money laundering center in the world. We are also the most sophisticated at combatting money laundering. I think there was a recent estimate that \$30 billion a year is repatriated back to Colombia.... There are certain cases in which you can actually detect on the foreign currency balance sheets of a country an impact because of drug money. I guess money laundering is getting more international. It is growing and I think it is also getting a greater commitment from [federal law enforcement agencies].

Chertoff told the Commission that in the past his office would prosecute money laundering merely by adding a laundering charge to a multi-count indictment charging other offenses.

But we have now started to actually make cases in which money laundering is the lead or most important of the charges brought, and we have had several cases in which we seized hundreds of bank accounts, millions of dollars and taken down international organizations that laundered five or more million dollars in a six-month period overseas, and what we were able to detect is that New Jersey, because of its...close proximity to New York and Pennsylvania, its shipping and air access, is a natural place for money laundering to occur and though it is not the kingpin of money laundering, it does fit in the chain in many cases.

Chertoff responded to questions about the use of various kinds of financial institutions by money launderers.

On the part of banks, they are very careful. A lot of them have compliance departments, and although you can still engage in what we call smurfing in banks with a lot of people going in with small transactions that aggregate to hundreds and thousands of dollars, [money launderers] now, I think, have increased the use of non-traditional institutions. Particularly as to organized crime, they go to check cashers.... One of the ways they move the money is [to] purchase actual

items, and they will shift the items overseas and reclaim or repatriate them maybe and make a profit by doing that. For example, we now have regulations where that is done with cars or other kinds of items, so that money laundering is now something that is not really a bank problem. Almost any time that you are dealing with a business that has a high-priced item, that will be shipped overseas.

Q. [Do you have] any thoughts about the sophistication of money laundering today?

A. I think you are dealing with among the most sophisticated people in the narcotics chain. It is much more difficult to launder money than to move the [drugs] into the country.... [M]oney laundering really involves an ability to work with several kinds of overseas currency transactions, understanding how the system of wiring money back and forth works, and understanding foreign trademarks.

Q. If you can purchase items and sell them overseas, is that a very good way to launder money?

A. ... [P]eople we are familiar with ... use well-known tax havens from the Bank Secrecy Act — Cayman Islands, places in Switzerland. A classic money launderer, Eddie Antar, Crazy Eddie, who was just convicted for a racketeering case, it was really maybe the most sophisticated money laundering case ever seen. Antar anticipated the possibility of apprehension and moved substantial amounts of

money to Israel where he had accounts in his own name, but also in other names, and as it got more intense, he began to move the money to Switzerland using anonymous trusts which are available over there and through several levels of wiring transactions where he had powers of attorney vested in individuals who then could make several more levels of transactions. This is very sophisticated stuff. It requires the use of lawyers overseas and the understanding of the fact that there are still places in the world that the protection of identity of people in bank accounts is top priority.

Q. Do you have any thoughts about the concept ... of going after money to diminish the monetary incentive of crime?

A. Probably, I think, most people who [prosecute] narcotics and organized crime [cases] believe that the most effective way to choke off this kind of activity would be to get the money — to go after the money laundering. I think we will never stop making cases for drugs, but if we could check the money, we would take the profit out of it and that would dry up the supply pretty substantially.

Q. Do you have any comments about the harm to society that money laundering permits, including loss of tax revenues and other issues?

A. ... [F]irst and foremost, money laundering allows people to sell large amounts of drugs. If you could not launder money, you could not repatriate the money, you

would not be in the drug business. And part of that would mean that you wouldn't be able to enter the infrastructure. Many cartels, such as a Cali-like cartel, have to have sophisticated means to traffic in cocaine, and we see where the Sicilian Mafia had to have that. So that is one consequence. You certainly lose tax revenues, although in the case of illegal activities you are not going to take taxes anyway. That is more relevant for tax evasion. There is also economic impact in terms of foreign currency balance of payments. There is so much money pouring into some parts of the world that it really has an impact on the [local] economy, ... on the relationship of those countries and our ability to monitor the amount of cash in the system, which we need to do in order to make economic decisions.

I think it is almost a joke that the Miami Federal Reserve often has more difficulty accounting for whatever their measure of money is than any other part of the country because there is so much cash that is coming into that particular area that is not accounted for in normal economic models used to determine what they expect money for.

Regarding the possibility of enacting a state money laundering statute, Chertoff said:

...whatever reporting requirements are put in place by [a] state law for financial institutions should be coordinated with federal reporting requirements. It is a

very burdensome issue and a source of complaints by a lot of banks and financial institutions.... In a way, that is too bad, but to the extent that they can dovetail state reporting requirements and a state money laundering law with a federal model, that makes it easier and that means we [can assure] better compliance

In answer to a question from Commissioner William T. Cahill, Chertoff said "... there is really no state money laundering of any significance that is not in theory of interest to the federal government but, of course, in practice, we can't possibly address most of those cases."

In answer to other questions from the Commission, Chertoff made these points:

— Professionals such as attorneys, accountants and stockbrokers should be prosecuted for money laundering, then disciplined by their professions.

— Attorneys involved in laundering their clients' money should be forced to forfeit their legal fees.

— Some brokerage houses in the past have chosen to ignore signs of money laundering by their clients because of the profits generated by securities transactions.

Karen T. Connelly, Supervisory Special Agent of the U.S. Customs Service, told the Commission that her agency encounters money laundering

in transportation of money, generally through a passenger who is getting on a plane.

. . . .

The State of New Jersey is wide open right now, especially in flights allowing transportation of currency out of the country. We have found in containers ... over \$8 million over the past year. [It has] been welded into the sides of containers ... [and] hidden in refrigeration units. [R]ecently ... a young woman was stopped leaving Newark Airport to the Bahamas ... carrying \$1.5 million. We also found currency going out in air cargo. Approximately two weeks ago, we had \$100,000 discovered in small five gallon water heaters that were being transported via air cargo to South America.

Referring to New Jersey's position as a corridor state, Connelly called it "a land bridge."

Cargo may come into a port in Philadelphia, Baltimore or farther west. It is then transported by rail into the New Jersey area. That is also a threat. We have local

bus service that goes daily from Union City and leaves direct for Miami every day. We have in one sting investigation actually identified a woman who had been carrying \$650,000 for transportation down to Miami from the Union City area.

Connelly said Customs works very closely with the IRS in smurfing cases. “Generally if they are smurfing the money, they are trying to gather enough or get enough under the requirement and transfer the money out of the United States.”

By Counsel Carol L. Hoekje:

Do you find that money launderers are fairly creative in the use of different kinds of containers for smuggling?

A. They are very creative, and as soon as we identify one technology they change it.

Q. Can you give us an example that highlights the use of containers for smuggling?

A. Certainly. Two that we have definitely seen, one being a \$7.1 million seizure of money [from] two containers where the nose of the container had been altered with a false one.

. . . .

To load a container with auto parts, they will just stand the container on its side and pour every type of auto part into it, so if you had a false nose or false center on that container and somebody went to open the back of it, you would find transmissions to bumpers just up against the back of that container, which means you have to go to the course of unloading it, turning it back upside down and dumping it, and in many times, it is not worth the cost or time to investigate a particular container of that sort unless we have direct information.

Q. Was there an instance where Customs found approximately \$760,000 in a container and found that it was money linked to a narcotics distribution network that went from Florida to Colombia back to Texas and New Jersey?

A. Yes. It was found in refrigeration units under the floor of the container. The ownership of the container was linked back to an individual in a Miami case, and the individual in the Miami case had been involved in importing tons of cocaine into Florida concealed in frozen foods.

Q. What gives Customs the right to seize money?

A. We have the right to search any individual or cargo [leaving] the United States and coming into the United States.

Q. What opportunities do the small airports in New Jersey offer?

A. Small airports ... offer a very good opportunity. There was a famous case about two or three years ago called the Air America case. It concerned an individual named Fred Luytjes who ran the operations into the United States at the time and he would meet his money contacts at Teterboro Airport, pick up about \$1.5 [million] to \$1.6 million at a time in a private plane and he was able to fly that back down to Colombia.

Q. What in your opinion is the major money laundering threat in New Jersey at the present time?

A. In the New Jersey area, one of the major threats that we are seeing are the money remitters.... Money remitters ... are storefronts [where] individuals can walk in and send money back home. They usually are found in ethnic neighborhoods where individuals have families that are still back in the old country, so to speak, and they need to send money down to them. Money launderers have found it a dependable avenue to send money back down to South America and wherever they need to. Money remitters are growing very rapidly in New Jersey, one of the reasons being that New York state law has tightened up greatly.

Asked for recommendations, Connelly said there should be greater cooperation and interaction between the state Banking Department and federal agencies in task forces and similar

enforcement efforts. She also said there should be more sharing of intelligence information, especially from local police who, she said, are well attuned to what is happening in their towns.

Michael Stenger, Assistant Special Agent in charge of the Financial Crimes Division in the United States Secret Service, testified that his agency encounters money launderers during investigations of counterfeiting, credit card fraud, bank fraud, use of false ID, food coupon fraud and telecommunication fraud.

Reiterating much of the testimony of other witnesses, Stenger urged greater cooperation among law enforcement agencies. “The proper tactic would be to coordinate information, share information,” Stenger said. He continued:

There are not enough people in law enforcement on their own to do this. It is too big an area. They have State and local police that they will be coordinating their efforts besides regulation, but you can't ask a banker or a check casher to be a policeman. They can follow the regulations that you put out there, but it really takes law enforcement to really enforce the regulations.

Regarding credit card fraud, Commissioner Louis H. Miller asked Stenger:

Do you find that the institutions that issue the cards or provide the credit accounts

or whatever they may be are complicit in what goes on or is that done without their complicity?

- A. *There is a fine line between poor business practices and criminal activity. Some institutions, I think, involved in the issuance of credit cards or sign-ups of the merchants are wanting in the area of background checks. They do mass credit card applications and those are run through the mail and returned with false information.*

The first witnesses on December 14, the second day of the hearing, were five bureau or section chiefs from the New Jersey Division of Criminal Justice, who testified as a panel discussing their individual experiences with money laundering. The five were: Assistant Attorney General **Nancy L. Singer**, Fraud Bureau; Deputy Attorney General **Donald Campolo**, Narcotics Bureau; Deputy Attorney General **Meredith A. Coté**, Casino Prosecutions Section; Deputy Attorney General **John A. Matthews, III**, Organized Crime Bureau; and Deputy Attorney General **H. John Witman**, Civil Remedies and Forfeiture Bureau.

Campolo told the Commission that the Colombian drug cartels are organized differently from La Cosa Nostra and the Mafia. The cartels have separate cells that handle each phase of the narcotics traffic such as transportation, storage, distribution and finance.

We've found that any of these individualized cells can themselves communicate directly with Cali, Colombia, and need not necessarily communicate with each other. That fracture[s] the ability of law enforcement to infiltrate a whole organization. We, therefore, may be limited to infiltrating simply the distribution phase under our present laws, and we have an interest to do so, because that's where the severe criminal penalties exist. What it also does is preclude the ability of law enforcement to develop an informant who knows the whole picture....

Campolo said he was certain that many of those high in the organization, especially those in the financial area, have escaped the scrutiny of law enforcement. He added:

Our narcotics laws very simply are directed at the trafficking in drugs, that is, the thrust of the criminal offense, and the elements of the offenses related to this are directed towards moving drugs around. The financial consequences of this activity are simply not treated under our present laws, at least in a direct fashion. And this isn't lost on the organizations that move vast amounts of drugs in our society.

Arguing for enactment of a state money laundering statute, Campolo said:

What we have now is a logical incompleteness. We have almost a recognition that

once the drug dealer makes his money, he's won the battle. He's home free. And he can go and use these proceeds however he wants, including bringing them someplace, filter them somehow, legitimize them somehow, and unless we catch him for dealing the drugs, we really don't have any hope.

Now, granted, that's a very simple example, but if you take it to the step of wiretap and investigations of that nature, which are a little bit more complex, what you run into in law enforcement is just like any other business. We go where we get results. We don't waste our time when there's no return.

So you can have an investigation where what you turn up, based upon your probable cause and your investigative methods, is a lot of talk about financial transactions and precious little, if any, talk about drug trafficking. And then the [reaction] is, well, we don't have a viable drug prosecution, so why are we going to pursue this? We can't prosecute people with possession to attempt to distribute \$1.9 million, we need drugs. So having a statute like this allows law enforcement to work towards a specific goal within specific parameters and punish what should rightly be punished.

Deputy Attorney General Matthews testified:

One of the most common methods [of money laundering] is the setting up of a

front company to originally bring the money out into the open, and when these kinds of companies are set up, the people setting them up really don't care whether the company makes money or not. All they want is a company which, on the books, can appear to be making money, and then they can put people on the payroll and through that process, even if the company makes no money, they at least have some source of income for all of their members or associates. That's one of the ways in which, over the years, they have utilized or legitimized the money which they have made.

CHAIRMAN ZAZZALI:

Mr. Matthews, what are the most typical front companies or types of companies?

- A. *Cash oriented type businesses — restaurants is one, taverns is another, car washes are another example — businesses where there's a large turnover of cash because it's difficult to track how much income that company is making.*

Another example over the years, and I know the SCI has held hearings on them, are gambling machines, and those type of things. There's a tremendous cash business in those machines, and that type of activity is also one in which money is laundered through by organized crime people. They have money they have to get into the mainstream and they use those kinds of industries to do it.

Assistant Attorney General Singer testified:

In the fraud context, money laundering is seen in movement of funds from account to account, whether business to personal, personal to business....

What is distinct in the fraud context, ... is that ... the initial transaction is not unlawful. You're not talking about dealing in narcotics, in loan-sharking, in illegal gambling. You're generally talking about a legitimate transaction between two individuals or two companies.

For example, you have a person who turns money over to a securities broker to place it in an investment, or an individual who writes a check to an insurance agent to place with his insurance carrier. Those transactions within themselves are entirely legal, and initial deposits of those moneys into the business account are generally legal.

It is the movement of that money from that account to other accounts belonging to the individuals who have received the money, the unlawful conversion of the money, is where the laundering takes place in the fraud context. So the inception is often legal, but it's the movement after the conversion of the funds that is the money laundering in the fraud context.

Singer noted that a case involving fraud against New Jersey Transit, investigated by the Commission and referred to the Division of Criminal Justice, contained elements of money laundering. In that case, Howard Farrelly, a bus company owner, has been charged by a state grand jury with diverting subsidy monies from NJT through a series of fraudulent transactions and concealing the thefts by running the funds through a dummy corporation.

Deputy Attorney General Coté told the Commission there is some evidence of money laundering in casinos.

Most of it is in the form of individuals coming and buying-in for cash, large amounts of cash, gambling chips and what have you, and subsequent gambling activity did not reflect the chips that they have purchased.

Our primary problem has been [that] these are very labor-intensive types of investigations and ... without a [money laundering] statute in place ... [they are] not cost-effective

Deputy Attorney General Witman told the Commission that a money laundering statute would make criminal certain conduct that is not now subject to prosecution. Civil forfeiture, which is his area of jurisdiction, is aimed at confiscating from criminals the proceeds of their illegal conduct whereas a money laundering statute would be aimed at prosecuting the financial activities that facilitate criminality.

Union County Prosecutor **Andrew Ruotolo, Jr.**, also advocated the enactment of a state money laundering statute.

I think what I would promote ... is the need for a complementary state response. [W]hat we've learned through model drug laws throughout the state ... [is that] our own statute doesn't duplicate the efforts of the federal law enforcement agencies but rather supplements it, complements it, speaks to issues which are parochial.

Regarding his view of the primary methods by which money launderers operate today, Ruotolo discussed what he called “toys of the trade.”

If you're a drug dealer in Elizabeth, New Jersey, you're going to buy a fancy car and a fancy boat, but ... automobile dealerships and boat dealerships are not considered in the regulatory scheme of the federal government, although they have requirements, they're certainly not in force and may not even know of their responsibility....

What we notice [is] that there are traditional industries that are now involved in promoting transfers of money. Let me be more specific. Sympathetic car dealerships would certainly allow money to be used to buy big-ticket items.

Unwitting realtors would rent to people with no possible means of income huge estates for cash, for instance. One of the businesses that we would never suspect or certainly not regulate would be real estate agencies, yet they are absolutely perfectly equipped to handle the transfer of moneys out of the country without suspicion.

Q. In many instances, is it fair to say that the goings on in these businesses might well fall below some cutoff... [and therefore] although money laundering may be happening, it may not be of interest [to federal authorities]?

A. Eight hundred dollars from a street dealer is not going to raise the interest of the federal government. It does pique my interest.

Discussing differing state and federal priorities, Ruotolo said:

Union County doesn't go for the Escobars. We are incapable of it. But similarly, the federal authorities are not going to come in and go after my drug dealers controlling Union County.

Commissioner Miller:

In other words, it's not all million-dollar transactions, it's \$5,000 —

A. *Exactly. I'm interested in a guy buying a \$20,000 car at a local ... dealership in cash with no visible means of income.... I believe all law enforcement in the end is parochial and so are the interests of the public. They want to know that there are no drug dealers operating in their community. They want to know there are no drug dealers selling poison to their children. What happens in Colombia is not as important to them in my community as what happens in the high school in Cranford. And consequently, a local response is not only necessary but the public demands it, and they have a right to it.*

Cameron H. Holmes, Chief of the Financial Remedies Unit in the Criminal Division of the Arizona Attorney General's Office, testified about his state's money laundering statute, enacted in 1985, that was the first of its kind in the nation:

Arizona was confronted with the problem that we're all confronted with, and that is that we felt the necessity to take a new look at the overall strategies we were using, particularly in narcotics, but also in organized crime.

In Arizona, the Attorney General's office had been focusing on traditional organized criminal prosecutions and major frauds. But with the resurgence of importation of cocaine through the southwest border, we were overwhelmed with large criminal enterprises focusing around drug importation, and it was the recognition

that we were in need of new tools and a new outlook that brought us to the money laundering statute.... In 1991, we amended the statute largely as the result of our specific studies of money laundering in Arizona, which led us to a belief that we needed reporting provisions and the regulatory provisions, and also that we needed to complete the circle on the prohibitory provisions by adding a portion of that statute outlawing the knowing provision of property to another to facilitate what we call racketeering, what the federal government calls specified unlawful activity or what you might simply call a serious felony offense.

Q. In your experience, has the Arizona money laundering statute been useful?

A. Oh, yes. My unit rarely, if ever, brings a case in which we do not allege money laundering. We focus all of our efforts on money laundering. We use money laundering as a primary investigative focus, as a prosecutive focus and as a rationale for our efforts to keep legitimate commerce clear of illegal influence.

Holmes said that in drafting the statute in 1985,

It was our perception, not that we were creating some new crime or that we were criminalizing conduct that was not touched by statutes then on the books, but that we were focusing by culling out a specific kind of facilitation, a critical kind of facilitation, and making it more prosecutable....

Holmes noted that the President's Commission on Model State Drug Laws recommended that the act of making property available to another, knowing that the property is intended to be used to further specified unlawful activity, be made a criminal offense.

And that's, in our view, the complement of other kinds of knowing participation in the finances of crime by capitalizing crime, providing the necessary asset to the criminal activity. And that is, in our view, money laundering because it's the knowing participation that finances crime.

. . . .

Commissioner Miller:

[H]ow does the money laundering statute interplay with conspiracy statutes? In other words, you were describing a conspiracy there that would be covered with a conspiracy to deal with an illegal enterprise, but aside from money laundering, do they go together, complement each other?

Mr. Holmes:

Absolutely, they complement each other. And money laundering is one aspect which is something of a substitute for a conspiracy charge It's simpler and

more direct for the jury. If you got a conspiracy in Arizona, five or six Mexican nationals sitting at the defense counsel table, and then you've got [a] real estate broker sitting next to him, you know, the question for the jury and the question for the defense attorney is what's wrong with this picture? You know, who doesn't belong at this table? If your charge is conspiracy, ...[j]urors will relate to that as a defense. My guy is different. My guy is not like them. He doesn't know them. He just dealt with them in a business context, et cetera.

But if the charge is money laundering, then when the jury is read the charge and given the instructions, they have to agree that that's exactly what this person did. They knowingly engaged in these transactions. They knew that it was drug related. And they knew that they were helping the drug dealers hide their money when they did it. So even if they're not bosom buddies, even if they're not out drinking with the rest of the conspirators or don't have their hands on the dope, money laundering is a ... viable charge, meaning a charge that a jury will be able to relate to.

. . . .

By Ms. Hoekje:

Q. With all of the federal jurisdiction over money laundering, does it make sense for a state to consider [its own] statute?

A. *Absolutely, and I concur completely with [Prosecutor] Ruotolo. I think that our greatest successes have been in tandem with federal authorities*

Q. *What issues should a state statute be careful to address...?*

A. *I would urge you to work very closely with industry in your formulation, particularly of the regulation provisions. I know that that was essential in our success, not only in passing our law in 1991 regulating money transmitters but also in the usefulness of the law that we eventually passed, and the acceptance of that law by industry. It's a little difficult sometimes for law enforcement to step back and see what they're doing against an economic backdrop.*

All of our efforts in enforcing the laws relating to ongoing profit-motivated crime are designed to keep legitimate industry free from those negative influences, whether it's the violence, whether it's fraud, whether it's the end product — in this [case], narcotics — but it could be any other end product — prostitution, organized car theft, whatever. The bottom line is keeping legitimate industry free of those influences.

Colonel **Justin J. Dintino**, Superintendent of the State Police who had also been a member of the President's Commission on Organized Crime, characterized money laundering as “the life blood of organized crime.” He testified that in addition to La Cosa Nostra and the Colombian

drug cartels, all organized crime groups are involved in money laundering of necessity and that they “cannot operate without [it].” He mentioned Asian gangs, Russian organized crime, the Sicilian Mafia, African-American organized crime groups, Jamaican posses and Nigerian criminal groups. He identified taverns, casinos, race tracks, check cashers and money remitters among the many widely available devices for laundering cash.

Regarding the sophistication of money laundering Dintino said:

I think the Colombian cartels are the most sophisticated of all They have complete structures dedicated solely to money laundering, and they have the money to employ the best people, the best attorneys, the best accountants, the best financial wizards, and they have very complex sophisticated money laundering systems.

Dintino was asked about Anthony T. Gallagher, an unlicensed Bayonne check casher and a man he had identified at a Commission hearing in 1988 as “a significant criminal associate” of the Genovese crime family. “[Gallagher] is in the check cashing business because the organized crime group that he works for wants him to be in the check cashing business because they can utilize [his] services ... in their illegal enterprises,” Dintino said.

Harvey Borak, Chief of Criminal Investigation for the New Jersey Division of Taxation, testified about the practice of some businesses using check cashers to cash checks from customers:

What we are seeing here is the actual disposal of the profits which are turned into currency, which is very difficult for us to trace. The money is bypassing the taxing system and finding its way back into the economy, and actually being used for legitimate purchases or investments.

[D]uring the course of ... investigations, we've seen evidence of the movement of large amounts of money by those involved with tax evasion schemes using wire transfers to make it more difficult for us to trace the funds and to identify the receivers of the funds, while at the same time they're moving the proceeds of these evasion schemes beyond our reach, and the amount of money involved in those areas is very very significant.

Regarding his recommendations for a state money laundering statute, Borak said:

First of all, I think that any entity that is allowed to cash checks should be required to keep detailed records, which would identify the person they are conducting the transaction for, the specifics of the transaction, the who, what, when, where, to whom, currency amounts, denominations and so forth. They should be required to keep the registers and for a set duration of time, even most important, the information should be available on demand without the necessity for subpoena, as some other states already have.

There should be a prohibition whereby check cashers would not be allowed to cash checks payable to businesses or corporate entities, and I really can't think of a single reason why a legitimate business would have to use a check casher for a business or a corporate check.

I think it's also important that any entity involved in check cashing or providers of money orders be subject to any proposed regulations. A bar that does a lot of cashing of checks, a liquor store, for example, they may not normally be in the business of finance, but they should have the requirement to keep those records because that's what they're doing, no matter what their prime business is.

Also, any access to currency transaction reporting information, it's essential that this information be available to the Division of Taxation if we are to address the significant noncompliance and, more important, to assist the other law enforcement agencies in their investigations....

State Banking Commissioner **Jeff Connor** told the Commission that money remitters “often serv[e] immigrant communities where people from foreign countries are remitting part of their paychecks back to their countries of origin, which would be a legitimate activity as opposed to money laundering ...” Many money remitters are also unlicensed, he said.

Connor said the state's statutes regulating non-banking financial institutions are antiquated and he called for a new statute which would provide both civil and criminal penalties and for violations. The state's money remitter law was enacted in 1907, the pawnbroker act in 1931. There are no references to modern money transmission technology or to money laundering. The laws reflect a criminal sanction but no civil penalty.

And as you know, the standard [of proof] for a civil proceeding is lower than for criminal, so you may not [have proof] beyond a reasonable doubt, but you may be able to prove sufficient to collect fines and penalties.

Connor also proposed a Financial Fraud Prevention Act that would allow the Banking Department to retain the income generated from fees charged for conducting bank investigations in order to hire more bank examiners and investigators. Connor said the surplus funds go into the general treasury.

Our department is self-supporting, and yet we're subject to budget cuts. Since I've been Commissioner, we've gone from 156 people to 122 people. We bring in 9.3 million [dollars]. We're only allowed to retain 6.7 million, so even when we generate revenues, we don't get to keep it all....

Regarding recent efforts to reform check cashing, Connor said:

I strongly feel there should be a limit on the size of checks cashed. There is a legitimate purpose in check cashing for people cashing welfare checks, Social Security checks, perhaps a trucker who is from out of state and it's pay day, but there should be some limit, whether it's 2500 [dollars], there may be another number, but the idea that you can cash a check for a hundred thousand dollars, or in some cases, enterprises will cash a million dollars in one year. What is the legitimate purpose for that amount of cash?

The corporate check again raises the question why someone is cashing a corporate check. Why aren't they depositing it in a bank and [making] a paper trail of their corporate activities? We [have] sought to have it outlawed, the cashing of corporate checks or checks over \$2500.

Q. Now, you endorse a money laundering statute?

A. Yes. In fact, as I understand it, if we are to share CTRs with the U.S. Department of Treasury, we have to have a state money-laundering statute so that this would fit in with coordinating state criminal enforcement with federal criminal enforcement.

Connor also recommended:

— Raising the amount of bonds required of foreign money remitters from the current

\$20,000 although not as high as the \$500,000 amount required in New York.

— Requiring background investigations to keep obvious launderers out of the business, recognizing that many immigrants legitimately send money to relatives in their country of origin on a regular basis.

First Assistant Attorney General **Michael Bozza** told the Commission about the increasing number of incidents of police confiscation of large amounts of cash from motor vehicles without finding drugs.

I believe that it's a fairly clear-cut recognition on the part of the criminal actors that our ability to go after [a] whole operation, including our ability to go after the seized money, is seriously impaired when we don't find drugs along with the money. Now, in a lot of these seizures, we've managed to invoke forfeiture law and we end up with money, but we end up with the money because no one comes to claim it. If there's a contest, a challenge, one of the things that we have to show is that that money is the product of illegal activity, and when we're left with nothing except money couriers that have had no contact with the drugs and the money, that's a very hard challenge.

Q. In your opinion, is there an enforcement gap between what is going on in the money laundering world and what the federal authorities are able to address?

A. *Yes ... because a good deal of money laundering takes place outside the state ... and [federal officials], with limited resources, do concentrate in that area [as] they should.... Once that area is left, no one else is involved in this game on a local level, so there's a very large void.*

Q. *Despite the state, local and federal efforts to deal with the various criminal activities that involve money, is there still in your opinion a serious problem with illegitimate funds?*

A. *...Harvey Borak talked about lost tax money. The fact that vast quantities of money are taken out of the legitimate sphere of the economy for any period of time is also a price. But I think that you really can't calculate the most important price. Wealth, profit, represent power and influence in every sphere, and when you put power and influence through wealth into the hands of criminals and you put it there so that they own that power and they own that wealth, that's probably the heaviest price that society has to pay.*

Chairman Zazzali:

You have mentioned how we had the edge, we had the advantage [in terms of prosecution of organized crime], and while it hasn't slipped back, it's become a closer game, I take it?

Mr. Bozza:

Yes, because these organized criminal groups are aware of the tools that we now have, and we have listened to them engaged in this activity, and [they] are consciously aware of trying to hide the true ownership of the illegal earnings.

RECOMMENDATIONS

1. New Jersey should enact a state money laundering statute with both civil and criminal penalties to provide a new basis to attack financial facilitation of a crime. This statute should complement federal statutes.

Witnesses repeatedly told the Commission how New Jersey, by virtue of its geographic location as a corridor state, its airports and seaports, its close proximity to New York City and Philadelphia, its population and its casinos among other factors, is a prime location for money laundering. Karen T. Connelly from U.S. Customs in Newark said, “New Jersey is wide open right now.”

Mary Medina of the Internal Revenue Service in Newark told the Commission that substantial New Jersey income is avoiding taxation at both the federal and state levels. The impact that money laundering has on New Jersey’s economy is significant. As Harvey Borak of the Division of Taxation testified, money laundering places an unfair burden on the taxpayers who legitimately pay their taxes because “the burden falls upon the honest taxpayer to fill that tax gap, and sometimes it even requires government to raise the tax rate because the projected revenues are not being received.”

Attacking the financial incentive for crime is of paramount importance. According to former State Police Superintendent Justin J. Dintino, a recognized expert in organized crime, "...I would say that money laundering is the life blood of organized crime, and it's a serious problem in New Jersey...." This Commission has repeatedly found money laundering in various forms in prior investigations. The Commission highlighted its findings related to money laundering in the check cashing industry (1988), in the garment industry (1990), in motor fuel tax evasion (1992), and in the alcoholic beverage industry (1992). It also found money laundering used in connection with fraud committed upon New Jersey Transit by a bus company operator (1993) and in the underworld in general.

The dollar amounts involved in money laundering are staggering. Several witnesses talked about the estimates of money involved. On the federal side estimates ran to \$150 billion per year and, in New Jersey the estimate was \$1 to \$2 billion annually.

Michael Bozza of the New Jersey Attorney General's office said:

... It's almost like the criminal actors now have caught up to us. For a little while we had the edge, because we were using racketeering, we were using forfeiture, and they weren't used to that kind of added penalty, and now they are.

And I don't think that it's tolerable or acceptable to leave them with the edge. We have to be able to pursue these criminal profits and we have to be able to take them back.

Currently, 22 states have laws imposing criminal penalties for money laundering and seven states have anti-money laundering statutes that contain currency reporting requirements. New Jersey should join their ranks. The Commission endorses the efforts to date on the part of the Office of the Attorney General and the Legislature to enact such legislation, which is now pending.

If such legislation is enacted, education programs and training programs for state and local law enforcement should be emphasized.

2. A uniform statutory scheme to deal with “shadow banking” businesses or non-banking financial institutions as well as financial fraud should be enacted.

Repeatedly, witnesses emphasized to the Commission that non-traditional financial institutions, in particular money transmitters, are a major money laundering threat. Michael Stenger of the Secret Service in Washington told the Commission where “money comes and goes” is where the money laundering focus should be. Reporting and recordkeeping provisions need to be put in place aimed at surfacing the growing underground economy. The statutory scheme should provide for meaningful civil and criminal penalties in connection with money transmitters, foreign money remitters, check cashers and check sellers. Currently, the Department of Banking has no authority to fine foreign money remitters or check sellers; there are no civil administrative remedies. Licensees should be subject to the Department of Banking on the civil side and the Division of Criminal Justice should handle the criminal sanctions.

3. **The Commission reiterates recommendations it has made several times since 1988 that secondary financial institutions, particularly check cashers, should be prohibited from cashing checks made payable to other than a natural person, thereby eliminating any checks payable to business entities, trade names, logos, etc., and from cashing checks in excess of a specific dollar amount, with exceptions such as government and insurance checks. Several witnesses testified that any business cashing a high dollar amount of checks as a secondary part of its business should be subject to recordkeeping provisions whether or not a fee is charged. Legislative hearings should determine when such provisions would be applicable with a view toward minimizing the burden placed on legitimate businesses.**

Since August 1988, this Commission has been concerned about the misuse of check cashing entities by organized crime and other unscrupulous elements. In its report of that date, the Commission found that “certain check cashers, licensed and unlicensed, were being utilized for nefarious purposes including the evasion of federal and state income taxes, sales and other taxes, bankrupting of companies, defrauding of corporate stockholders and creditors, and laundering of cash obtained from gambling, narcotics embezzlement, extortion, loansharking and other illegal activities.” The Commission first called for a money laundering statute in that report. As a direct outgrowth of the check cashing investigation, the Commission conducted investigations of the garment industry (1990) and motor fuels tax evasion (1991), both of which arose from evidence of large checks and checks made payable to business entities being cashed at New Jersey check cashers. In February 1992, the Commission renewed its call for a money laundering statute in its motor fuels tax evasion report.

In December 1992, the United States Senate Committee on Governmental Affairs, Permanent Subcommittee on Investigations, found that there had been a major expansion of money laundering activities in recent years through non-bank financial institutions, including check cashing businesses.

While New Jersey has been in the forefront since 1988 in exposing the nefarious activities of some who use check cashers, it has failed to enact meaningful reform. It must be recognized that as traditional financial institutions (banks) continue to comply with federal requirements, those who deal in cash or “under the table” transactions turn increasingly to check cashers and other secondary financial institutions subject to regulations that are less stringent, more difficult to enforce and sometimes non-existent.

Since 1988, the Commission has assisted the New Jersey Department of Banking (NJDOB), then-Commissioner of Banking Jeff Connor and his predecessor, Mary Little Parrell, and the Division of Criminal Justice in the preparation of draft check cashing legislation. Key portions of the latest check-cashing bill, which the Commission considers absolutely essential to true reform of the check-cashing industry, were deleted by legislative committee amendments last year. Throughout this entire process the check-cashing industry has lobbied intensely against these reforms. At the time of the money laundering hearing in December 1993, the check-cashing legislation had passed both houses of the Legislature. It has now become law without the key reform provisions.

The huge increase in activity at licensed check cashers since the Commission's hearing in 1988 speaks volumes about the problem:

	<u>1988</u>	<u>1992</u>
Checks Cashed	4.7 Million	6.9 Million
Total amt. of Checks Cashed	\$1.4 Billion	\$2.7 Billion
Amount of In-State Checks	\$1.0 Billion	\$2.0 Billion
Amount of Out-of-State Checks	\$331 Million	\$658 Million
Amount of Fees Collected	\$ 14 Million	\$ 38 Million

(Based on data from the NJDOB)

In connection with the question of money laundering in this state, witness after witness told the Commission that check cashers are today a serious problem along with other non-bank financial institutions:

— Michael C. Orndorff from FinCEN told the Commission that there are indications that drug dealers go to non-bank institutions, such as check cashers and money transmitters, to exchange street money for large bills.

— Mary Medina of the IRS told the Commission about finding businesses such as bars and grocery stores whose check-cashing activities are more substantial than their principal business activity. She told the Commission that these unlicensed check cashers do not report receiving any fees on their tax returns for cashing checks. Hence, since New Jersey regulates only those who cash checks for a fee, these check cashers fall completely outside the existing regulatory system. She added “...bar customers may well be avoiding banks or licensed regulated check cashers for the purpose of laundering profits from legal or illegal activities and avoiding the payment of substantial state and federal taxes.” Medina also told the Commission about the IRS experience.

Our check cashers and money remitters are the fastest growing, most mobile and most difficult to identify. Our investigative experience involving these entities has revealed their failure to maintain adequate records documenting currency transactions, thereby increasing difficulties our examiners face when verifying whether the proper records were kept or what the source and individuals linked to it were.

— Former U.S. Attorney Chertoff, in discussing the trend toward use of non-traditional banking institutions, said, “particularly as to organized crime, they go to check cashers.”

The Commission continues to call for prohibitions on the cashing of both large checks and those made payable to other than natural persons. The check-cashing legislation passed last year

which was begun in response to this Commission's prescient call for check-cashing reform legislation has merely become a means for New Jersey's burgeoning check-cashing industry to collect higher fees and for money launderers and others to continue to escape detection. New Jersey's weak regulation of its non-bank financial institutions, such as check cashers and money remitters, continues to permit this state to serve as a haven for such activities. No money laundering statutory scheme will be complete without true reform of the check cashing industry.

4. Legislation should be considered which would provide state law enforcement authorities and the Division of Taxation access to all financial transaction reporting information to enable them to address the significant non-compliance problem and to assist law enforcement agencies in their investigations.

Any financial reporting requirements to state authorities, including the Division of Taxation, should mirror current federal requirements, thus placing no greater burden on businesses than presently exist. Regulatory provisions must address the deliberate manipulation of monies to avoid the reporting threshold and must require aggregation where such manipulation is attempted.

As noted in the Model Money Laundering Act released in December 1993 by the President's Commission on Model State Drug Laws, the U.S. Senate Permanent Subcommittee on Investigations and the General Accounting office, in separate investigations, concluded that

access to financial data can assist states in fighting money laundering. As also noted therein, some states have been operating under a Memorandum of Understanding (MOU) with the U.S. Department of Treasury for state access to state-related currency filings. These MOUs allow the state to obtain computer tapes containing all such filings on a regular basis from federal data centers. Access by this method is both inexpensive and rapid.

5. New Jersey has enjoyed a unique cooperative relationship with its federal, state and local authorities working together over the past decade. This spirit of assistance and cooperation could be furthered by a creation of a task force to focus on money laundering. Any such effort should involve representatives of federal, state and local agencies.

* * *

The investigation on which this report is based was conducted by Counsel Carol L. Hoekje and Charlotte K. Gaal, who were assisted by Special Agent Kurt Schmid. The Commission is grateful for the assistance of those many agencies whose representatives testified in the public hearing and otherwise assisted in the investigation.