



# Suspicious Activity Reporting: The Prosecutor's Perspective

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# Outline

- A Brief History of Money Laundering, the Bank Secrecy Act (BSA), and Suspicious Activity Reports (SARS)
- Law Enforcement's Use of SARS
- Tips for Filing Better SARS
- Case Studies



# History





**Majer Suchowliński**



# BANK SECRECY ACT (BSA)

- Passed in 1970
- Poorly named-really Bank Anti-Secrecy Act
- Subsequently amended in:
  - 1986 (Money Laundering Control Act)
    - Criminalized money laundering and structuring
  - 1992 (Annunzio-Wylie Anti-Money Laundering Act)
    - Created SARs
    - SAR regulations go into effect April 1, 1996
  - 2001 (Patriot Act)
    - Bulk Cash Smuggling/Unlicensed Money Transmitting business
    - KYC/314 sharing/enhanced AML



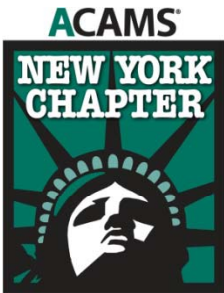
# BANK SECRECY ACT (BSA)

- Purpose was to:
  - Create paper trails (record retention)
  - Make it harder to use the financial system to launder or otherwise use dirty money (transparency)
  - Detect and stop terrorist activity-looking forward, not just backward (2001 amend.)



# SAR History

- Originally used exclusively to further existing cases and investigations (Reactive)
  - Investigative tips
  - Additional money laundering and BSA charges
  - Asset location
    - Return \$ to victims
    - Recoup criminal proceeds



# SAR History

- 2001-National Money Laundering Strategy report put out by GAO, DOJ, Treasury
- Called for the establishment of SAR review teams in all federal judicial districts
- Multi-agency review team
- Idea was simple, don't just use SARs to further cases, also use them to initiate cases (Proactive)
- Teams now operating in most judicial districts



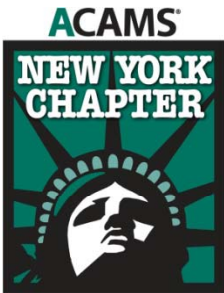
# SAR Review Teams

- IRS-CID (Department of Treasury)
- ICE (Department of Homeland Security)
- USAO (Department of Justice)
- FBI-JTTF (Joint Terrorist task Force)
- USPIS
- DEA
- Secret Service
- State/Locals
- Regulators



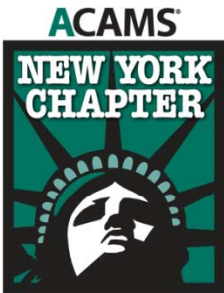
# How a SAR Team Works

- Group meets monthly
- SAR download sent to each participant
- Download consists of every SAR filed in the District that meets criteria
- Participants review the SARS prior to the meeting
- Research on targets/De-confliction
- Cases assigned to relevant agencies for further investigations if group deems it necessary
- Supporting documents requested



# Other Reviewers

- HIFCA
  - Dan Wager-HIFCA/NY
- FBI/JTTF
  - Code “T” SARs
- State and Locals
  - Manhattan D.A.
- Regulators
  - CFTC/FDIC/SEC



# Requests from Law Enforcement

- No subpoena will be issued or is required to obtain SAR or SAR related documents
  - Title 31 CFR 103.18(d)
    - A bank shall maintain a copy of any SAR filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the SAR. Supporting documentation shall be identified, and maintained by the bank as such, and shall be deemed to have been filed with the SAR. **A bank shall make all supporting documentation available to FinCEN and any appropriate law enforcement agencies or bank supervisory agencies upon request.**



# Disclosure of SARS

- Notification prohibited
  - 31 U.S.C. sec. 5318(g)(2)(A)
  - If a SAR is filed...
    - (i) the financial institution...may not notify any person involved in the transaction that the transaction has been reported
    - (ii) no officer or employee of the Federal Government ...who has knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.
  - Policy of Fincen and DOJ to not disclose the existence of the SAR to anyone outside of law enforcement



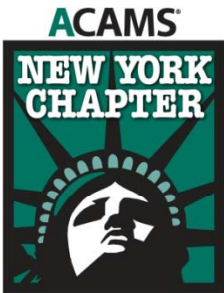
# Enforcement

- Several options
  - Criminal Prosecutions
  - Civil Prosecutions/Forfeiture
  - State and Federal Regulatory Action
  - Warning Letters
  - Referrals



# Criminal Prosecutions

- Prosecute Underlying Activity
- Criminal Forfeiture Actions
- Enhanced penalties for Money Laundering and BSA Offenses
- Structuring and BSA Offense are crimes in and of themselves!
- Remember-No Parole in the Federal System



# Civil Forfeiture Actions

- Civil Law allows us to seize money and commence a forfeiture action when it represents
  - Proceeds of a crime
  - Instrumentality of a crime
  - Property involved in a Money Laundering or BSA Offense

No need for a criminal action. Civil Forfeiture action can be brought even without a criminal action



# Civil/Criminal Forfeiture

- Need a seizure warrant
- Must prepare a sworn affidavit concerning investigation
- Presented to a Federal Judge
- Must have Probable Cause to proceed (similar to a search warrant)
- Court order that empowers the law enforcement officer to seize all funds within a bank account
- Exigent circumstance exception (letters to freeze account)



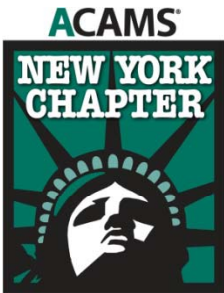
# Enforcement

- State and Federal Regulatory Action
- Warning Letters
- Referrals



# Other SAR Review Efforts

- Still being used for their original purpose of furthering existing case



# Tips

## Data Conversion

This

Random Bank & Co.	
NYSE: JPM	4:16 PM ET on Mar 26, 2009
Current Price	29.10 Change 0.54 ▲
Trades	514,823 Volume 133,252,400
Day High	29.60 Day Low 27.65
Stock information is provided by eSignal. Market data delayed at least 20 min.	
<b>Contact information:</b>	<b>Stock Transfer Agent:</b>
Investor Relations JPMorgan Chase & Co. 270 Park Avenue New York, NY 10017-2070 212-270-7325 <a href="mailto:JPMInvestorrelations@jpmchase.com">JPMInvestorrelations@jpmchase.com</a>	Mellon Investor Services P.O. Box 3338 South Hackensack, NJ 07606-1938 800-758-4651 (toll free) 201-329-8660 (international) <a href="http://www.melloninvestor.com">www.melloninvestor.com</a>

To

This

Random Bank & Co. Contact information: NYSE: JPM 4:16 PM ET on Mar 26, 2009 Investor Relations Current Price 29.10 Change 0.54 JPMorgan Chase & Co. Trades 514,823 Volume 133,252,400 Day High 29.60 Day Low 27.65 Stock information is provided by eSignal. Market data delayed at least 20 min. 270 Park Avenue New York, NY 10017-2070 201-329-8660 (international) 212-270-7325 [JPMInvestorrelations@jpmchase.com](mailto:JPMInvestorrelations@jpmchase.com) [www.melloninvestor.com](http://www.melloninvestor.com) Stock Transfer Agent: Mellon Investor Services 800-758-4651 (toll free) P.O. Box 3338 South Hackensack, NJ 07606-1938



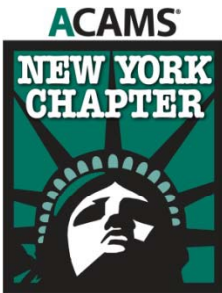
# Tips

- Please concisely state at the beginning what you suspect
- Avoid charts if you can, please summarize the activity
- Use clear and precise terms for key word searches (i.e. Structuring, Police Officer, Mayor, etc.)



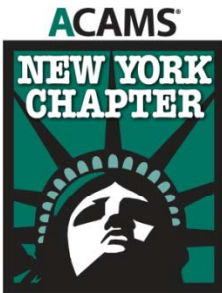
# Tips

- Please Provide:
  - Names
    - All variations
  - Addresses
  - Phone numbers
  - IP addresses and other identifying information
  - Prior contact with law enforcement of regulatory agencies
  - Media reports related to the subject



# Tips

- Check multiple transactions boxes on CTRs
- Please include all correspondence with customers, especially structuring letters
- Statements to tellers and bank employees
- Availability of video
- Indicate after hour/ATM deposits
- Time of deposits if relevant



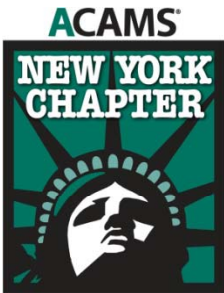
# Tips

- Debits from account consistent with stated purpose of account?
- Personal accounts used to buy wholesale goods or
- Business accounts used to purchase personal and luxury items
- Is address legitimate?
- MSB registered with both Fincen and the State?



# Tips

- International “pass-through” account activity
- Personal accounts receiving large volume and amounts of funds
- Travelers checks negotiated shortly after purchase
- Mismatched industries (i.e electronics company buying textiles)



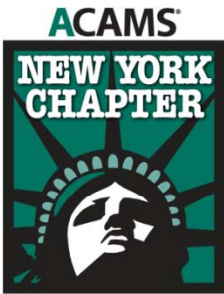
# TIPS

- Trade Based Money Laundering/BMPE
  - Counter Deposits
  - Multiple individuals making deposits into the same accounts
  - Cash deposits made at disparate geographical locations
  - Payee information stamped or filled in by beneficiary
  - Different inks or handwriting on instruments
  - Sequentially numbered instruments
  - Personal accounts used to buy wholesale goods



# Enforcement

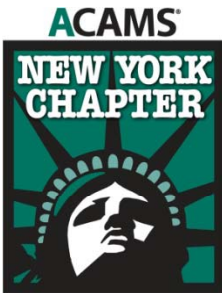
- Criminal Prosecution and Deferred Prosecution Agreements
  - Wachovia (2009) \$160M forfeiture
  - Lloyds of London (2009) \$350M forfeiture
  - AMEX (2007) \$55M forfeiture
  - Bank Atlantic (2006) \$10M forfeiture
  - BONY (2005) \$26M forfeiture
- Bank Regulators
  - Federal Reserve
  - FDIC
  - OCC & State Charters



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# Case Studies

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