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

IN THE MATTER OF:	)	
	)	
	)	
	)	**Number 2006-4**
FROSTY FOOD MART	)	
TAMPA, FLORIDA	)	
	)	

ASSESSMENT OF CIVIL MONEY PENALTY

I. INTRODUCTION

Under the authority of the Bank Secrecy Act and regulations issued pursuant to that Act,[1] the Financial Crimes Enforcement Network has determined that grounds exist to assess a civil money penalty against Frosty Food Mart, Tampa, Florida ("Frosty"). To resolve this matter, and only for that purpose, Frosty has entered into a CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTY ("CONSENT") without admitting or denying the determinations by the Financial Crimes Enforcement Network, as described in Sections III and IV below, except as to jurisdiction in Section II below, which is admitted.

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

II. JURISDICTION

Frosty is a money services business that has been operating in Tampa, Florida since 1982. The entity is a sole proprietorship owned by Jose A. Balda and Zoila Balda. Frosty provided check cashing, wire transfer and money order services to its customers until January 2004, at which time it stopped conducting wire transfers and issuing money orders. Frosty continues to operate as a check casher and money services business pursuant to the Bank Secrecy Act. The Internal Revenue Service, Small Business/Self-Employed Division examines Frosty for compliance with the Bank Secrecy Act and its implementing regulations.

At all relevant times, Frosty was a "financial institution" and a "money services business" within the meaning of the Bank Secrecy Act and the regulations issued pursuant to the Act.[2]

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[1] 31 U.S.C. § 5321 and 31 C.F.R. § 103.57.
[2] 31 U.S.C. § 5312(a)(2) and 31 C.F.R. § 103.11.

III. DETERMINATIONS

A. Summary

Frosty failed to establish and implement an anti-money laundering program with internal controls and other measures reasonably designed to prevent the money services business from being used to facilitate money laundering. Frosty cashed checks without controls reasonably designed to ensure compliance with the Bank Secrecy Act. Frosty failed to conduct adequate independent testing and did not designate a person, or persons, to coordinate and monitor day-to-day compliance with the Bank Secrecy Act. Frosty also failed to provide adequate training to applicable personnel to ensure compliance with the Bank Secrecy Act. Frosty's reckless disregard towards the anti-money laundering program requirements of the Bank Secrecy Act led, in turn, to a failure on the part of Frosty to file currency transaction reports as required by the Bank Secrecy Act and its implementing regulations.[3] Frosty operates in central Florida, an area that has been designated as a High Intensity Drug Trafficking Area.

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

The Financial Crimes Enforcement Network has determined that Frosty violated the requirement to establish and implement an adequate anti-money laundering program. Since July 24, 2002, the Bank Secrecy Act and its implementing regulations have required money services businesses to establish and implement anti-money laundering programs.[4] An effective program is one that is reasonably designed to prevent the money services business from being used to facilitate money laundering and the financing of terrorist activities. The regulation requires money services businesses to implement a written anti-money laundering program that, at a minimum: (a) incorporates policies, procedures and internal controls reasonably designed to ensure ongoing compliance; (b) designates an individual responsible for coordinating and monitoring day-to-day compliance; (c) provides training for appropriate personnel; and (d) provides for independent review to monitor and maintain an adequate program.

Frosty failed to establish and implement a written anti-money laundering program, in violation of 31 U.S.C. § 5318(h)(1) and 31 C.F.R. § 103.125 of the Bank Secrecy Act. By not developing and implementing an anti-money laundering program, Frosty failed to comply with core program elements which required that Frosty implement internal controls reasonably designed to ensure compliance; designate an individual responsible for coordinating and monitoring day-to-day compliance; provide training for appropriate personnel; and provide for independent review to monitor and maintain an adequate program. Additionally, Frosty's lack of an anti-money laundering program resulted in violations of the currency transaction reporting requirements of the Bank Secrecy Act.

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[3] 31 U.S.C. § 5313 and 31 C.F.R. § 103.22.

[4] 31 U.S.C. § 5318(h)(1) and 31 C.F.R. § 103.125.

C. Violations of the Requirement to File Currency Transaction Reports

The Bank Secrecy Act and its implementing regulations require money services businesses to file a report of each deposit, withdrawal, exchange of currency or other payment or transfer which involves a transaction in currency of more than $10,000.[5] Multiple currency transactions shall be treated as a single transaction if the money services business has knowledge that such transactions are by, or on behalf of, any person and result in either cash in or cash out totaling more than $10,000 during any one business day.[6] Money services businesses are required to file a currency transaction report on a form prescribed by the Secretary of the Treasury and must provide all information called for in the form.[7]

Frosty failed to file sixty-eight currency transaction reports for a total of $1,036,804 on single check cashing transactions, in excess of $10,000, for twenty-five customers. Frosty also failed to file twelve currency transaction reports on multiple check cashing transactions, totaling more than $10,000 in a single business day, for eight customers. The failure to file a total of eighty currency transaction reports, in the aggregate amount of $1,252,807 between January 2003 and July 2004, represents a one hundred percent failure rate for currency transaction report compliance by Frosty during the time period.

Moreover, prior to January 2003, Frosty was informed on two separate occasions by the Internal Revenue Service of its duty to file currency transaction reports for both single and multiple transactions. Despite this knowledge, Frosty continued to disregard its reporting requirements for a number of years.

IV. CIVIL MONEY PENALTY

Under the authority of the Bank Secrecy Act and the regulations issued pursuant to that Act,[8] the Financial Crimes Enforcement Network has determined that a civil money penalty is due for violations of the Bank Secrecy Act and the regulations issued pursuant to that Act and described in this ASSESSMENT.

Based on the seriousness of the violations at issue in this matter, and the financial resources available to Frosty, the Financial Crimes Enforcement Network has determined that the appropriate penalty in this matter is $10,000.

V. CONSENT TO ASSESSMENT

To resolve this matter, and only for that purpose, Frosty, without admitting or denying either the facts or determinations described in Sections III and IV above, except as to jurisdiction in Section II, which is admitted, consents to the assessment of a civil money penalty against it in the amount of $10,000.

Frosty recognizes and states that it enters into the CONSENT freely and

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[5] 31 C.F.R. § 103.22(b)(1).
[6] 31 C.F.R. § 103.22(c)(2).
[7] 31 C.F.R. § 103.27(d).
[8] 31 U.S.C. § 5321 and 31 C.F.R. § 103.57.

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

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

VI. RELEASE

Frosty understands that its execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, constitute a complete settlement of civil liability for the violations of the Bank Secrecy Act and regulations issued pursuant to that Act described in the CONSENT and this ASSESSMENT.

By: Robert W. Werner
Robert W. Werner, Director
FINANCIAL CRIMES ENFORCEMENT NETWORK
U. S. Department of the Treasury

Date: May 9, 2006