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

IN THE MATTER OF:	)	
	)	
	)	
	)	**Number 2006 - 5**
LIBERTY BANK OF NEW YORK	)	
NEW YORK, NEW YORK	)	
	)	

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 Liberty Bank of New York, New York, New York ("Liberty Bank" or "Bank"). To resolve this matter, and only for that purpose, Liberty Bank 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

Liberty Bank is an insured state chartered nonmember bank, with two offices located in New York. Liberty Bank offers a wide variety of commercial banking services, including deposit accounts, credit, and remittance services. As of December 31, 2005, Liberty Bank had assets of approximately $58 million. The Federal Deposit Insurance Corporation is Liberty Bank's Federal functional regulator and examines Liberty Bank for compliance with the Bank Secrecy Act and its implementing regulations and with similar rules under Title 12 of the United States Code. The New York State Banking Department examines Liberty Bank for compliance with requirements under banking laws of the State of New York comparable to those of the Bank Secrecy Act and its implementing regulations.

---

[1] 31 U.S.C. § 5321 and 31 C.F.R. § 103.57.

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

III. DETERMINATIONS

A. Summary

Examinations of Liberty Bank by the Federal Deposit Insurance Corporation and New York State Banking Department found deficiencies in Liberty Bank's anti-money laundering program, revealing that Liberty Bank failed to implement an adequate system of internal controls to ensure compliance with the Bank Secrecy Act and manage the risks of money laundering. The investigation also revealed that Liberty Bank failed to designate a person or persons to coordinate and monitor day-to-day compliance with the Bank Secrecy Act. These failures in internal controls and designation of a compliance officer led, in turn, to failures by Liberty Bank to timely file numerous suspicious activity reports involving, in aggregate, hundreds of millions of dollars in suspicious transactions. The failures of Liberty Bank to comply with the Bank Secrecy Act and the regulations issued pursuant to that Act were significant.

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

The Financial Crimes Enforcement Network has determined that Liberty Bank violated the requirement to establish and implement an adequate anti-money laundering program. Since April 24, 2002, the Bank Secrecy Act and its implementing regulations have required banks to establish an anti-money laundering program.[3] A bank is deemed to have satisfied the requirements of 31 U.S.C. § 5318(h)(1), if it implements and maintains an anti-money laundering program that complies with the regulations of its Federal functional regulator governing such programs. The Federal Deposit Insurance Corporation requires each bank under its supervision to establish and maintain an anti-money laundering program that, at a minimum: (a) provides for a system of internal controls to assure ongoing compliance; (b) provides for independent testing for compliance conducted by bank personnel or by an outside party; (c) designates an individual or individuals responsible for coordinating and monitoring day-to-day compliance; and (d) provides training for appropriate personnel.[4] Liberty Bank failed to implement adequate internal controls and designate a person or persons to coordinate and monitor day-to-day compliance with the Bank Secrecy Act.

1. Internal Policies, Procedures and Controls

Liberty Bank failed to implement an adequate system of internal controls to ensure compliance with the Bank Secrecy Act and manage the risks of money laundering. Liberty Bank lacked adequate written policies, procedures and controls reasonably designed to ensure the detection and reporting of suspicious transactions. Liberty Bank's policies and procedures did not clearly delineate responsibility for detecting, evaluating and reporting suspicious activity, or provide guidance and instruction on the decision and approval process for suspicious activity reporting.

---

[2] 31 U.S.C. § 5312(a)(2) and 31 C.F.R. § 103.11.
[3] 31 U.S.C. § 5318(h)(1) and 31 C.F.R. § 103.120.
[4] 12 C.F.R. § 326.8(c).

Liberty Bank's policies, procedures and controls failed to ensure that the Bank gathered and reviewed sufficient information on customers, on a risk graded basis, to adequately assess risk and the potential for money laundering. This deficiency was particularly evident with customers engaged in cash-intensive activities. Without necessary customer information, the Bank was not able to perform adequate analysis to determine whether currency and wire transfer transactions lacked any apparent business or legal purpose, or were within the particular customer's normal or expected range of conduct.

Liberty Bank lacked adequate systems and controls to monitor transactions for potential of money laundering or other suspicious activity. The Bank's process for monitoring transaction activity was informal, decentralized and lacked documentation to track and monitor customer activity. Automated monitoring systems were inadequate to support the volume and types of money transfer transactions conducted by Liberty Bank. Furthermore, in the absence of necessary customer information, and accompanying risk matrices, the Bank failed to develop a method for monitoring the transactions of high-risk customers to determine if the actual activity was commensurate with expected activity and/or lacked any apparent business or legal purpose.

Liberty Bank's anti-money laundering program lacked internal controls and procedures to respond to information sharing requests from the Financial Crimes Enforcement Network under section 314(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ("USA PATRIOT Act").[5] The scope of the Bank's section 314(a) searches was inadequate because relevant records of activities conducted within the Bank were not searched, including wire transfers and sale of monetary instruments. Liberty Bank was unable to manage the risk of failing to share information with law enforcement regarding individuals, entities, and organizations engaged in or reasonably suspected, based on credible evidence, of engaging in terrorist acts or money laundering activities.

2. Designation of Compliance Officer

Throughout much of the relevant time period, Liberty Bank failed to designate a compliance officer to ensure day-to-day compliance with the Bank Secrecy Act and its implementing regulations. The Bank Secrecy Act Compliance Officer at Liberty Bank did not take necessary and appropriate measures to implement, coordinate and monitor compliance with the Bank Secrecy Act. As a result, the Bank failed to adequately monitor, identify, investigate, analyze, and report suspicious activity.

In view of the above, Liberty Bank failed to implement an adequate anti-money laundering program reasonably designed to identify transactions that exhibited indicia of money laundering or other suspicious activity, considering the types of products and services offered by the Bank and the nature of its customers. Liberty Bank's anti-money laundering program failures and the following suspicious activity reporting violations were integrally connected.

[5] USA PATRIOT Act § 314(a) and 31 C.F.R. § 103.100.

C. Violations of the Requirement to Report Suspicious Transactions

The Financial Crimes Enforcement Network has determined that Liberty Bank violated the suspicious transaction reporting requirements of the Bank Secrecy Act and regulations issued pursuant to that Act.[6] These reporting requirements impose an obligation on banks to report transactions that involve or aggregate to at least $5,000, are conducted by, at, or through the bank and that the bank "knows, suspects or has reason to suspect" are suspicious.[7] A transaction is "suspicious" if the transaction: (1) involves funds derived from illegal activities, or is conducted to disguise funds derived from illegal activities; (2) is designed to evade reporting or record keeping requirements under the Bank Secrecy Act; or (3) has no business or apparent lawful purpose or is not the sort in which the customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.[8]

Banks must report suspicious transactions by filing suspicious activity reports.[9] In general, a bank must file a suspicious activity report no later than thirty calendar days after detecting facts that may constitute a basis for filing a suspicious activity report. If no suspect was identified on the date of detection, a bank may delay the filing for an additional thirty calendar days to identify a suspect. However, in no event may the bank file a suspicious activity report more than sixty calendar days after the date of detection.[10]

Liberty Bank violated the suspicious transaction reporting requirements of 31 U.S.C. § 5318(g) and 31 C.F.R. § 103.18 by failing to identify and timely report numerous suspicious transactions involving, in aggregate, hundreds of millions of dollars. Liberty Bank filed a substantial number of suspicious activity reports in response to Cease and Desist Orders by the Federal Deposit Insurance Corporation and New York State Banking Department dated November 30, 2004. An adequate anti-money laundering program would have allowed Liberty Bank to file suspicious activity reports in a timely manner.

In addition, the utility of many suspicious activity reports filed by the Bank suffered from a failure to provide adequate narrative descriptions, with little or no description of the transactions at issue, in direct contravention of the instructions on the report.

IV. CIVIL MONEY PENALTY

Under the authority of the Bank Secrecy Act and the regulations issued pursuant to that Act,[11] 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.

---

[6] 31 U.S.C. § 5318(g) and 31 C.F.R. § 103.18.
[7] 31 C.F.R. § 103.18(a)(2).
[8] 31 C.F.R. § 103.18(a)(2)(i)-(iii).
[9] 31 C.F.R. § 103.18.
[10] 31 C.F.R. § 103.18(b)(3).
[11] 31 U.S.C. § 5321 and 31 C.F.R. § 103.57.

Based on the seriousness of the violations at issue in this matter, and the financial resources available to Liberty Bank, the Financial Crimes Enforcement Network has determined that the appropriate penalty in this matter is $600,000.

V. CONSENT TO ASSESSMENT

To resolve this matter, and only for that purpose, Liberty Bank, 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 $600,000. This penalty assessment shall be concurrent with the $600,000 penalty assessed against Liberty Bank by the Federal Deposit Insurance Corporation and the New York State Banking Department, and shall be satisfied by one payment of $300,000 to the Department of the Treasury and one payment of $300,000 to the New York State Banking Department.

Liberty Bank recognizes and states that it enters into the CONSENT freely and 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 Liberty Bank to enter into the CONSENT, except for those specified in the CONSENT.

Liberty Bank understands and agrees that the CONSENT embodies the entire agreement between Liberty Bank and the Financial Crimes Enforcement Network relating to this enforcement matter only, as described in Section III above. Liberty Bank further understands and agrees that there are no express or implied promises, representations, or agreements between Liberty Bank 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

Liberty Bank 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 18, 2006