

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

**IN THE MATTER OF  
POLISH & SLAVIC  
FEDERAL CREDIT UNION**

**No. DI 99-011**

**ASSESSMENT OF CIVIL MONEY PENALTIES  
WITH UNDERTAKINGS**

**I. INTRODUCTION**

The Secretary of the United States Department of the Treasury has delegated to the Director of the Financial Crimes Enforcement Network (“FinCEN”) the authority to determine whether a financial institution has violated the Bank Secrecy Act, 31 U.S.C. §§5311 et seq. and 31 CFR Part 103 thereunder (“BSA”), and what, if any, sanction is appropriate.

In order to resolve this matter, and only for that purpose, the Polish & Slavic Federal Credit Union (“PSFCU” or “Credit Union”) through the National Credit Union Administration (“NCUA”) as agent, has entered into a CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTIES AND UNDERTAKINGS without admitting or denying FinCEN’s determinations described in Paragraph III below, except as to jurisdiction in Paragraph II below, which is admitted, and without admitting or denying FinCEN’s determination of the PSFCU’s liability under the Bank Secrecy Act in Paragraph IV that serves as the basis for the assessment of such a penalty.

The PSFCU’s CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTIES WITH UNDERTAKINGS, dated January 13, 2000, is incorporated herein by this reference.

**II. JURISDICTION**

The PSFCU is a federally chartered credit union organized under the Federal Credit Union Act, located in Brooklyn, NY, and examined by the NCUA. The PSFCU is a “financial institution” within the meaning of 31 U.S.C. §5312(a)(2) and 31 CFR §103.11(n). As of September 1999, the PSFCU had assets of approximately \$600 million.

Between January 1997 and the present, the Board of the NCUA has taken a series of enforcement actions against the PSFCU to, among other things, compel the PSFCU’s compliance with the BSA. On April 15, 1999, the NCUA imposed a conservatorship on the PSFCU and

removed the PSFCU's Board of Directors, primarily based on the PSFCU's failure to establish adequate internal controls, including adequate controls for satisfactory BSA compliance. Although the PSFCU's former Board of Directors challenged the NCUA's actions, a federal district court upheld the conservatorship on July 9, 1999.<sup>1</sup>

### III. FINCEN'S DETERMINATIONS

#### A. Failure to File Currency Transaction Reports

FinCEN has determined that between 1989 and January 1997, the PSFCU willfully failed to file numerous Currency Transaction Report ("CTR") forms for currency transactions in an amount greater than \$10,000 as required by 31 CFR §103.22, promulgated under §5313 of the Bank Secrecy Act.

The Credit Union failed to file CTRs primarily for transactions involving two customers. One customer, a travel agency and money transmitter, was owned at relevant times by a member of the PSFCU's former Board of Directors who was also the Board's Chairman from 1990 through 1995. From 1989 through January 1997, the PSFCU improperly exempted the money remitter's currency transactions from CTR reporting. From 1994 through January 1997, the money remitter made over 1,000 individual currency deposits in excess of \$10,000, either individually or in the aggregate, on a single day.

Under the exemption regulations applicable at the time, the money transmitter did not qualify for an exemption from CTR reporting. Moreover, even assuming the exemption was permissible, the PSFCU did not properly date the exemption document, analyze and identify the maximum level of exempt deposits, or monitor the account for continued compliance with the exemption criteria as then required by 31 CFR §103.22. Although the Credit Union had other business accounts, the PSFCU had not granted exemptions for any other customer's currency transactions.

Between 1990 and January 1997, the PSFCU permitted a second customer, the owner of a small business who cashed checks, to withdrawal currency in excess of \$10,000 without filing CTRs for those transactions. This customer conducted currency transactions for his check cashing business through a group of personal accounts in the names of various family members and others. Several times a week, the customer deposited large numbers of endorsed third-party checks to one or more of the accounts, often in sequence and through a single teller. The customer then immediately withdrew currency in multiple amounts of slightly under \$10,000 each. From May 1993 until January 1997, the PSFCU filed no CTRs for this activity.

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<sup>1</sup> *In re Conservatorship of the Polish and Slavic Federal Credit Union*, 99CV 2406 (E.D.N.Y.). The former Board of Directors has filed a notice of appeal to the Second Circuit Court of Appeals.

B. Willful Violations

FinCEN has determined that the PSFCU willfully violated the BSA through the actions and omissions of its former management and Board of Directors. The former general manager of the PSFCU who was at relevant times a member of the PSFCU's former Board, and the owner of the money remitter who was at relevant times a member of the PSFCU's Board, know or were reckless in not knowing, that the PSFCU could not lawfully exempt the money transmitter. The former general manager of the PSFCU knew or was reckless in not knowing that CTRs should have been filed for the customer's cashing of checks through structured withdrawals of currency.

In addition, the former general manager and the PSFCU's former Board, among other things, (1) failed to establish and maintain an adequate level of internal controls for BSA compliance, particularly for the PSFCU's business accountholders; (2) failed to establish an effective BSA compliance program; (3) failed to establish or require BSA training for credit union employees; and (4) failed to provide for an effective internal audit function. Therefore, FinCEN has determined that the PSFCU willfully violated the BSA when it failed to file the CTRs as described above.

IV. CIVIL MONEY PENALTY

FinCEN has determined that by failing to file CTRs as described in Paragraph III above, the PSFCU willfully violated the currency reporting provisions of the BSA and a civil money penalty is due pursuant to 31 U.S.C. §5321 and 31 CFR §103.47(f).

V. ASSESSMENT

This assessment reflects, among other things, the enforcement actions taken by the NCUA, as regulator of the PSFCU, culminating in the current conservatorship and which have resulted in a change of management at the PSFCU. THEREFORE, the Department of the Treasury assesses against the PSFCU, a civil money penalty of \$185,000.

By its execution of the CONSENT, the PSFCU, through the NCUA as conservator, without admitting or denying FinCEN's determinations described in Paragraphs III and IV above, except as to jurisdiction in Paragraph II, which is admitted, consents to the assessment of a civil money penalty against the PSFCU in the sum of \$185,000.

PSFCU shall, under the terms of its CONSENT:

1. Pay the amount of \$185,000 within five (5) business days of the date of this ASSESSMENT.
2. Such payment shall be:
  - a. made by certified check, cashier's check, or money order;

- b. made payable to the United States Department of the Treasury;
- c. hand-delivered or sent by overnight mail to Nicholas A. Procaccini, Assistant Director and Chief Financial Officer, FinCEN, P.O. Box 39, Vienna, Virginia 22183; and
- d. submitted under a cover letter, which references the caption and file number in this matter.

## VI. UNDERTAKINGS

By execution of its CONSENT, the PSFCU, through the NCUA as conservator, without admitting or denying the determinations described in Paragraphs III and IV above, except for jurisdiction in Paragraph II, which is admitted, agrees to the following UNDERTAKINGS:

1. Pursuant to the 2000 Letter of Understanding and Agreement between the NCUA and the PSFCU relating to Bank Secrecy Act compliance which will be entered into early this year ("LUA"), the PSFCU agrees to retain independent auditors to conduct semi-annual audits of the PSFCU's compliance with the BSA for the period beginning January 1, 2000, and ending on December 31, 2003. The PSFCU agrees to provide copies of the audit reports, the PSFCU's responses to the reports, any reports of corrective actions taken and any other reports relating to the BSA required by the LUA to the NCUA with a copy concurrently to FinCEN within 30 days of the date of the report or response.
2. By March 31, 2000, the PSFCU will review the account activity of each personal account at the PSFCU that had at least two cash transactions per month of \$3,000 or more occurring during any three months within the period from July 1, 1999, through December 31, 1999, to determine whether the pattern of account activity may suggest that the account is being used for business purposes. Thereafter, the PSFCU agrees to conduct semi-annual reviews for three years of the account activity of each personal account that has at least two cash transactions per month of \$3,000 or more occurring during any three months within a six-month period (i.e., January-June and July-December) to determine whether the pattern of account activity may suggest that the account is being used for business purposes. If the PSFCU determines that an account is being used for business purposes, the PSFCU will document the name of the business, the nature of the business, the individual member's relationship to the business and the PSFCU, and the nature of the activity in the account and any related accounts. The PSFCU also will code the account in its internal system as a business account, and it will monitor the account for BSA purposes. Summaries of the results of the PSFCU's reviews and the actions taken, if any, will be provided to the NCUA with a copy concurrently to FinCEN within 30 days of completing the reviews but, in any event, no later than April 30 (for reviews covering July-December) and October 31 (for reviews covering January-June).

3. The PSFCU also agrees to continue to use and maintain its enhanced automated and manual systems to identify possible suspicious currency, wire transfer, and other transactions through member accounts, both personal accounts and business accounts. Special attention will be given to transactions through business accounts and personal accounts used by members for business purposes, especially accounts used by businesses that are themselves financial institutions subject to the BSA, e.g., funds transmitters. Within 30 days of the date of this CONSENT, the PSFCU agrees to document in more detail and to enhance its written procedures for identifying, investigating and reporting suspicious activity and to document the procedures that the PSFCU adopts to comply with this UNDERTAKING. A copy of such procedures shall be provided to the NCUA with a copy to FinCEN.
  
4. The PSFCU agrees to provide BSA and anti-money laundering training sessions for all appropriate employees and the Board of Directors on at least an annual basis. In such training, the PSFCU will continue to emphasize the need to be alert to suspicious activity, including possible structuring of currency transactions by members to avoid the BSA reporting requirements, and to report all suspicious activity immediately to the PSFCU BSA Compliance Officer in accordance with the PSFCU's procedures.

Failure to comply materially with the UNDERTAKINGS will constitute a violation of the PSFCU's LUA with the NCUA. In the event of a material failure to comply with the UNDERTAKINGS, the NCUA can take any action it deems appropriate against the PSFCU, including but not limited to, conserving the credit union, imposing a civil money penalty, or ordering other remedial sanctions within its authority.

## VII. RELEASE

The PSFCU's execution of the CONSENT and compliance with both the terms of the CONSENT and the terms of this ASSESSMENT OF CIVIL MONEY PENALTIES WITH UNDERTAKINGS constitute a complete settlement of civil liability for reporting or recordkeeping violations of the BSA which may have occurred through June 30, 1999. This release is based upon information provided to and reviewed by FinCEN regarding the PSFCU's BSA compliance program up to that date, including reports of internal audits of the PSFCU's BSA compliance conducted under the supervision of the NCUA and reviews conducted by external auditors.

By: //signed// James F. Sloan	1-18-00
James F. Sloan, Director	Date
FINANCIAL CRIMES ENFORCEMENT NETWORK	
U.S. DEPARTMENT OF THE TREASURY	