

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

IN THE MATTER OF:)
)
)
VICTOR KAGANOV) **Number 2011-2**
TIGARD, OREGON)

ASSESSMENT OF CIVIL MONEY PENALTY

I. INTRODUCTION

Under the authority of the Bank Secrecy Act and regulations issued pursuant to that Act, the Financial Crimes Enforcement Network has determined that grounds exist to assess a civil money penalty against Victor Kaganov (“Kaganov” or the “Money Transmitter”).¹ To resolve this matter, and only for that purpose, Kaganov 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 the ASSESSMENT OF CIVIL MONEY PENALTY (“ASSESSMENT”) by this reference.

II. JURISDICTION

Kaganov was an independent money transmitter, located in Tigard, Oregon. Between July 2002 and March 2009, Kaganov repeatedly executed funds transfers for clients and received financial compensation for those money transmission services. Kaganov engaged in the business of transmitting funds for persons located in the United States and abroad. At all relevant times, Kaganov was a “money transmitter,” within the meaning of the Bank Secrecy Act and its implementing regulations.² Money transmitters are a type of “money services business” and “financial institution,” under the Bank Secrecy Act and regulations issued pursuant to that Act.³

¹ 31 U.S.C. § 5311 et seq. and 31 C.F.R. Part 103. 31 C.F.R. Chapter X. On March 1, 2011, a transfer and reorganization of Bank Secrecy Act regulations from 31 C.F.R. Part 103 to 31 C.F.R. Chapter X became effective. Throughout this document we refer to the Part 103 citations in effect during the relevant period of time, followed by the corresponding Chapter X citations.

² 31 C.F.R. § 103.11(n) and (uu). 31 C.F.R. § 1010.100(t) and (ff).

³ 31 U.S.C. § 5312(a)(2) and 31 C.F.R. § 103.11(n). 31 C.F.R. § 1010.100(t).

Under delegated authority from the Financial Crimes Enforcement Network, the Internal Revenue Service, Small Business/Self-Employed Division examines money services businesses for compliance with the Bank Secrecy Act, and refers evidence of deficiencies to the Financial Crimes Enforcement Network for disposition.⁴ State government agencies examine money services businesses for compliance with state laws comparable to the Bank Secrecy Act, and submit relevant examination results to the Financial Crimes Enforcement Network, pursuant to Memorandums of Understanding. Kaganov was investigated by the United States Department of Justice, Federal Bureau of Investigation and the United States Postal Inspection Service.⁵ The Financial Crimes Enforcement Network investigated Kaganov pursuant to its authority to enforce compliance with the Bank Secrecy Act.⁶

The Financial Crimes Enforcement Network is authorized to impose civil money penalties against money services businesses for violations of the Bank Secrecy Act, and the United States Department of Justice prosecutes criminal violations of the Bank Secrecy Act and related money-laundering statutes. Kaganov was charged with operating an unlicensed money transmitting business by the United States Department of Justice, in the United States District Court for the District of Oregon, Portland Division.⁷ On March 1, 2011, Kaganov pleaded guilty to violating 18 U.S.C. § 1960, Prohibition of Unlicensed Money Transmitting Business.⁸

III. DETERMINATIONS

A. Summary

The Financial Crimes Enforcement Network has determined that Kaganov violated the registration, anti-money laundering program, and suspicious activity reporting requirements of the Bank Secrecy Act. Kaganov did business as an independent money transmitter out of his residence in Tigard, Oregon. From July 2002 through March 2009, Kaganov conducted more than 4,200 funds transfers in the United States, involving total dollars amounting to more than \$172 million, to and from geographic regions in Europe and Asia including jurisdictions classified by the United States Department of State as suffering from money laundering deficiencies.⁹ In a typical transaction, funds were wired into a U.S. bank account controlled by Kaganov. Next, Kaganov was instructed to transmit the funds to a beneficiary specified by name, financial institution account and electronic routing numbers. Kaganov then instructed his bank to transmit the funds, in accordance with these instructions.

Kaganov engaged in a fairly high volume of money transmission services over an extended period of time. Kaganov's banking transactions did not always conform to the stated nature and parameters of his business activities that were established at account opening. Banking organizations, in keeping with their responsibilities under the Bank Secrecy Act, normally request

⁴ 31 C.F.R. § 103.56(b)(8). 31 C.F.R. § 1010.810(b)(8).

⁵ <http://portland.fbi.gov/dojpressrel/pressrel10/pd030310.htm>

⁶ 31 C.F.R. § 103.56. 31 C.F.R. § 1010.810.

⁷ <http://portland.fbi.gov/dojpressrel/pressrel10/pd030310.htm>

⁸ <http://www.justice.gov/opa/pr/2011/March/11-crm-261.html>

⁹ United States Department of State International Narcotics Control Strategy Reports to Congress classify foreign jurisdictions based on money laundering risk, and are published annually. See <http://www.state.gov/p/inl/rls/nrcrpt/>.

registration information from money transmitters and other types of money services business customers that are required to register with the Financial Crimes Enforcement Network. Kaganov consistently conducted business outside the regulatory framework for money transmitters, including Bank Secrecy Act registration requirements.

B. Violations of the Requirement to Register with the Financial Crimes Enforcement Network

The Financial Crimes Enforcement Network has determined that Kaganov was an unregistered money transmitter in violation of Bank Secrecy Act registration requirements for money transmitters, from July 2002 through March 2009. The Bank Secrecy Act has required certain money transmitters to register with the Financial Crimes Enforcement Network, since 2001.¹⁰ The registration requirement is intended to assist law enforcement and supervisory agencies in criminal, tax and regulatory investigations and proceedings, and to prevent money transmitters from engaging in illegal activities.¹¹ Affected money transmitters comply with Bank Secrecy Act registration requirements mainly by filing a registration of money services business form (“RMSB”) within 180 days after commencing operations, and renewing the registration every two years.¹² RMSB forms promote greater transparency with respect to money services businesses, which serve as gateways to the U.S. financial system. RMSB forms are also an integral part of highly useful investigative audit trails utilized by law enforcement, the Financial Crimes Enforcement Network and other government agencies. A business that is a money transmitter solely because it serves as an agent of another money transmitter is not required to comply with Bank Secrecy Act registration requirements.¹³ Any person(s) who owns or controls a money transmitter is responsible for registering the business.¹⁴ At no point in time did Kaganov register with the Financial Crimes Enforcement Network. The registration requirement is an initial and foundational step required as part of the Financial Crimes Enforcement Network’s larger regulatory framework for money services businesses.

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

The Financial Crimes Enforcement Network has determined that Kaganov violated Bank Secrecy Act anti-money laundering program requirements. Kaganov did not establish and maintain an anti-money laundering program appropriate to the money laundering risks associated with his business, executing over 4,200 funds transfers amounting to \$172 million, involving more than 50 international jurisdictions, in less than seven years. Since July 24, 2002, the Bank Secrecy Act and its implementing regulations have required money transmitters to establish and implement written anti-money laundering programs reasonably designed to prevent the money transmitter from being used to facilitate money laundering and the financing of terrorist activities.¹⁵ During the relevant

¹⁰ 31 U.S.C. § 5330 and 31 C.F.R. § 103.41. 31 C.F.R. § 1022.380.

¹¹ See Amendment to the Bank Secrecy Act Regulations-Definitions Relating to, and Registration of, Money Services Businesses, 64 FR 45438 (August 20, 1999).

¹² 31 C.F.R. § 103.41(b)(2). 31 C.F.R. § 1022.380(b)(2). The Financial Crimes Enforcement Network’s home page for money services businesses is located at http://www.fincen.gov/financial_institutions/msb/, and contains a copy of the RMSB form and instructions. There is no cost for registration.

¹³ 31 C.F.R. § 103.41(a)(2). 31 C.F.R. § 1022.380(a)(2).

¹⁴ 31 C.F.R. § 103.41(c). 31 C.F.R. § 1022.380(c).

¹⁵ 31 U.S.C. § 5318(h)(1) and 31 C.F.R. § 103.125. 31 C.F.R. § 1022.210.

period of time, Kaganov completely breached his duties as a money transmitter subject to the Bank Secrecy Act by failing to establish and implement a written anti-money laundering program, with internal controls, training, independent audit, and designated personnel to ensure day-to-day compliance. The absence of systems, controls and other anti-money laundering measures left Kaganov unable to detect and report suspicious transactions, in accordance with the Bank Secrecy Act, and to prevent the potential for facilitating money laundering.

D. Violations of the Requirement to Report Suspicious Transactions

The Financial Crimes Enforcement Network has determined that Kaganov violated Bank Secrecy Act suspicious activity reporting requirements. The Bank Secrecy Act and its implementing regulations have required money transmitters to report suspicious transactions since December 31, 2001.¹⁶ A money transmitter must report any transaction involving or aggregating to at least \$2,000 that it “knows, suspects, or has reason to suspect” (i) involves funds derived from illegal activity or is intended or conducted in order to disguise funds or assets derived from illegal activity, (ii) is designed to evade the reporting or record keeping requirements of the Bank Secrecy Act (e.g. structuring transactions to avoid currency transaction reporting), (iii) serves no business or apparent lawful purpose, and the money transmitter knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction, or (iv) involves use of the money transmitter to facilitate criminal activity.¹⁷ Without a Bank Secrecy Act anti-money laundering program, Kaganov was not equipped to detect and report suspicious activity. In fact, Kaganov filed no suspicious activity reports on transactions that exhibited red flags for money laundering activity, including funds transferred to and from jurisdictions identified as vulnerable to money laundering, and transactions lacking business or apparent lawful purpose.

IV. CIVIL MONEY PENALTY

The Financial Crimes Enforcement Network may impose civil money penalties against a money transmitter, or any person who owns or controls a money transmitter, for violations of money services business registration requirements.¹⁸ The Financial Crimes Enforcement Network may assess a civil money penalty for failure to register as a money transmitter, in an amount up to \$5,000 per violation. Each day a violation continues constitutes a separate violation. The Financial Crimes Enforcement Network may assess civil money penalties against a money transmitter, or any partner, director, officer, or employee thereof, for each willful violation of reporting, and/or anti-money laundering program requirements. A penalty of \$25,000 per day may be assessed for failure to establish and implement an adequate written anti-money laundering program.¹⁹ A separate violation occurs for each day the violation continues. A penalty not to exceed the greater of the amount involved in the transaction (but capped at \$100,000) or \$25,000 may be assessed for each suspicious activity reporting violation.²⁰

¹⁶ 31 U.S.C. § 5318(g) and 31 C.F.R. § 103.20. 31 C.F.R. § 1022.320.

¹⁷ 31 C.F.R. § 103.20(a)(2). 31 C.F.R. § 1022.320(a)(2).

¹⁸ 31 U.S.C. § 5330(e) and 31 C.F.R. § 103.41(e). 31 C.F.R. § 1022.380(e).

¹⁹ 31 U.S.C. § 5321(a)(1).

²⁰ 31 U.S.C. § 5321(a)(1) and 31 C.F.R. § 103.57(f). 31 C.F.R. § 1010.820(f).

As administrator of the Bank Secrecy Act, the Financial Crimes Enforcement Network has determined that a civil money penalty is due from Kaganov for the violations of the Bank Secrecy Act and its implementing regulations described in this ASSESSMENT. After considering the seriousness of the violations, the financial resources available to Kaganov, and criminal actions taken by the United States Department of Justice, the Financial Crimes Enforcement Network has determined that the appropriate penalty in this matter is \$25,000. This civil money penalty shall be satisfied by one \$25,000 payment to the United States Department of the Treasury.

V. CONSENT TO ASSESSMENT

To resolve this matter, and only for that purpose, Kaganov, 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 in the sum of \$25,000 to be satisfied by one \$25,000 payment to the United States Department of the Treasury.

Kaganov recognizes and states that he 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 Kaganov to enter into the CONSENT, except for those specified in the CONSENT.

Kaganov understands and agrees that the CONSENT embodies the entire agreement between the Money Transmitter and the Financial Crimes Enforcement Network relating to this enforcement matter only, as described in Section III above. Kaganov further understands and agrees that there are no express or implied promises, representations, or agreements between the Money Transmitter and the Financial Crimes Enforcement Network other than those expressly set forth or referred to in the CONSENT or in this ASSESSMENT, 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

Kaganov understands that execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, constitute a complete settlement and release of the Money Transmitter's civil liability for the violations of the Bank Secrecy Act and regulations issued pursuant to that Act as described in the CONSENT and this ASSESSMENT.

By:

/s/

James H. Freis, Jr., Director
FINANCIAL CRIMES ENFORCEMENT NETWORK
United States Department of the Treasury

Date:

March 7, 2011