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White Collar Defense and Investigations Alert

A Newsletter Covering Developments in Criminal and Civil Enforcement, Litigation, and Compliance

December 22, 2014

FinCEN Assesses \$1 Million Penalty and Seeks to Bar Former MoneyGram Executive from Financial Industry

By Jodi L. Avergun and James Treanor

On December 18, 2014, the Financial Crimes Enforcement Network (“FinCEN”) assessed a \$1 million civil monetary penalty against Thomas E. Haider, former Chief Compliance Officer at MoneyGram International Inc., for allegedly failing to ensure that his company complied with the anti-money laundering (“AML”) provisions of the Bank Secrecy Act.¹ FinCEN is also seeking to enjoin Haider from future employment in the financial industry. Previously, in 2012, MoneyGram entered into a five-year deferred prosecution agreement (“DPA”) with the Department of Justice under which it agreed to forfeit \$100 million and admitted to criminally aiding and abetting wire fraud, and failing to maintain an effective AML program.²

As Chief Compliance Officer from 2003 through 2008, Haider oversaw MoneyGram’s Fraud Department, which received thousands of complaints from consumers alleging a range of fraudulent schemes. While these scams were premised upon a variety of false promises, each was designed to entice victims to send money to the scam’s perpetrators using MoneyGram’s money transfer system. Haider and other MoneyGram personnel allegedly knew, suspected, or had reason to suspect that agents and outlets in the MoneyGram system were involved in this illegal activity.

According to the related Complaint filed on December 18 by Preet Bharara, U.S. Attorney for the Southern District of New York, “Haider failed to ensure that MoneyGram (1) implemented and maintained an effective AML program; and (2) fulfilled its obligation to file timely SARs [Suspicious Activity Reports].”³ In particular, Haider allegedly failed to ensure that the company maintained a policy for the discipline of agents and outlets that MoneyGram knew or suspected were involved in fraud and/or money laundering. The complaint also alleges that Haider failed to conduct effective due diligence and audits of the company’s agents and outlets, and failed to terminate agents and outlets that Haider and others knew posed an “unreasonable risk of fraud and/or money laundering.” In addition, Haider allegedly failed to ensure that suspicious activity reports SARs were filed on agents and outlets that he knew or had reason to suspect were engaged in fraud, money laundering, and other illegal activities. In part, this was the result of Haider’s failure to maintain an AML program under which complaints and other information obtained by the Fraud Department were provided to individuals responsible for filing SARs.

The assessment of a \$1 million civil penalty against Haider represents an aggressive effort by FinCEN to hold individuals personally liable for AML violations. If approved by the U.S. District Court for the Southern District of New York, the penalty will send a strong message to compliance officers and other professionals charged with implementing AML programs that violations under

their watch may affect not only the corporation’s bottom line, but also their own.

Endnotes

1. See December 18, 2014 FinCEN Press Release, available at http://www.fincen.gov/news_room/nr/pdf/20141218.pdf.
2. See November 9, 2012 MoneyGram Deferred Prosecution Agreement, available at http://www.justice.gov/usao/pam/news/2012/MoneyGram_DPA_11_09_2012.pdf.
3. See December 18, 2014 Complaint against Thomas E. Haider, available at http://www.fincen.gov/news_room/ea/files/USAO_SDNY_Complaint.pdf.

UPCOMING EVENTS

Speaking Engagements

March 4 - 6, 2015

ABA White Collar Crime Conference
New Orleans, LA

Raymond Banoun, Jodi L. Avergun, Dale C. Turza and Bradley J. Bondi will speak at this event.

March 2015

Navigant Roundtable: Key Legal and Regulatory Risks for Corporate Counsel
New York, NY

Peter B. Clark and Bradley J. Bondi will speak at this event.

May 2015

ACI’s 9th Advanced Forum on FCPA & Anti-Corruption for the Life Sciences Industry
New York, NY

Bret A. Campbell will co-chair this event.

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