



# U.S. Immigration and Customs Enforcement

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**STATEMENT**

**OF**

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**REGARDING A HEARING ON**

**“EXAMINING STATE BUSINESS INCORPORATION PRACTICES: A  
DISCUSSION OF THE INCORPORATION TRANSPARENCY AND LAW  
ENFORCEMENT ASSISTANCE ACT (S. 569)”**

**BEFORE THE**

**UNITED STATES SENATE  
COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS**

**Thursday, June 18, 2009 @ 2:30 pm  
342 Dirksen Senate Office Building**

## **INTRODUCTION**

Chairman Lieberman, Ranking Member Collins, and distinguished Members of the Committee:

On behalf of Secretary Napolitano and Assistant Secretary Morton, I would like to thank you for the opportunity to testify today on the efforts of U.S. Immigration and Customs Enforcement (ICE) to protect the United States from the growing threat of international money laundering. ICE has expansive investigative authority and the largest force of investigators in the Department of Homeland Security (DHS). We protect national security and uphold public safety by targeting transnational criminal networks and terrorist organizations that seek to exploit vulnerabilities at our borders.

ICE investigates individuals and organizations that exploit vulnerabilities in financial systems for the purpose of laundering illicit proceeds. ICE also addresses the financial component of every cross-border criminal investigation. ICE's financial investigative authorities and unique capabilities specifically given to and used by ICE enables it to identify, dismantle, and disrupt the financial criminal enterprises that threaten our nation's economy and security. The combination of successful financial investigations, Bank Secrecy Act (BSA) reporting requirements, and Anti Money Laundering (AML) compliance efforts by traditional and non traditional financial institutions has, historically, forced criminal organizations to seek other means to launder their illicit funds across our borders. One of the most effective methods to confront, dismantle, and disrupt these often violent, transnational criminal organizations is to target the criminal proceeds that fund their operations. However, in the attempts to accomplish this mission, law enforcement is often hindered by the lack of information available as to the true ownership or control of shell companies. Further, this impediment limits our abilities to work

jointly with our international law enforcement partners and can inhibit our ability to take quick action where it may be required.

In addition, ICE participates in a working group chaired by the National Security Council focused on the United States Government response to large-scale corruption by foreign public officials, also referred to as “kleptocracy.” ICE has played an integral role in the development of the strategy, as it is uniquely positioned as a U.S. cross-border investigative agency possessing international money laundering expertise, customs and immigration authorities, and extensive international investigative assets. In 2003, ICE established the Federal Foreign Corruption Task Force, which conducts investigations into the laundering of proceeds emanating from foreign public corruption, bribery, or embezzlement. The investigations are conducted jointly with representatives of foreign governments to prevent laundered money from entering the U.S. financial infrastructure, seize identified assets in the U.S., and repatriate these funds to the victimized governments.

ICE has long recognized the misuse of corporations and limited liability companies (LLCs) formed under State law as a serious threat to the ongoing effort to combat international criminal activities. The lack of corporate transparency has allowed criminal entities a gateway into the financial system and further veils their illicit activity. Investigations can be significantly hampered in cases where criminal targets utilize shell corporations. The difficulty for law enforcement to obtain true beneficial ownership information impedes investigators’ ability to follow criminal proceeds. Furthermore, the 2005 U.S. Money Laundering Threat Assessment, the first government-wide analysis of money laundering in the United States, specified that “legal entities such as shell companies and trusts are used globally for legitimate business

purposes, but because of their ability to hide ownership and mask financial details they have become popular tools for money launderers.”

Obtaining information on true beneficial corporation owners and LLCs formed under State law, and providing the information to civil or criminal law enforcement upon receipt of a subpoena or summons, would assist DHS in its endeavor to protect the country. Currently, due to the disparity in the type and amount of corporate ownership information collected by individual States, law enforcement is often faced with the unavailability of needed information as to the true ownership of funds, accounts, or assets that are deemed to be linked to criminal activity. The collection by States of a standard minimum level of corporate ownership information, and the ability of law enforcement to access this information in a timely manner, would greatly assist law enforcement efforts.

At this time, I would like to share with you a few examples of investigations that demonstrate how “shell” corporations established in the United States have been utilized to commit crime against individuals throughout the world.

### **NEW YORK MONEY LAUNDERING INVESTIGATION – INVESTMENT FRAUD**

Based on a tip, an investigation was initiated by our New York office against a criminal organization involved with defrauding investors out of millions of dollars and laundering the fraudulently obtained proceeds. The investigation revealed an enterprise of individuals offering fictitious instruments for investment programs described as “currency leasing trading programs,” leading to more than \$14 million in fraudulent transactions. These funds were laundered through a network of domestic and foreign bank accounts utilizing shell corporations, many of which had been established in the United States.

The investigation revealed that one of the perpetrators operated an Internet web site out of Las Vegas, Nevada, which offered investors the opportunity to “lease” \$1 million for a fee of \$35,000. Once “leased,” victims were told these funds would be placed into a high yield international trading program. The contracts provided to the investors indicated an expected return on their investment of as much as 25 percent every two weeks.

An additional co-conspirator in the scheme was responsible for establishing a complex web of bank and brokerage accounts, and shell companies. This individual established corporations in Delaware, Nevada, California, and Massachusetts in the United States along with companies in Denmark, Sweden, Luxembourg, and the Bahamas. Another co-conspirator opened cash management accounts at brokerages utilizing the shell corporations. Investors were told to send their \$35,000 fee to the accounts established utilizing the shell corporation names. Once in this account, the funds were transferred to secondary accounts. From these accounts, the funds were then disbursed to various foreign and domestic accounts and liquidated through the use of checks, debit cards, and ATM cards. The investors never realized the profits they were promised. They merely received a litany of excuses for the delays and promises that the transactions would be completed. When they requested refunds, the investors were told that they were not entitled to a refund since they had received the service that they paid for, namely that the funds had been successfully leased.

In the end, six individuals pled or were found guilty of violating money laundering, wire fraud, and international transportation of stolen funds statutes. The defendant’s use of domestic and foreign shell companies to layer the funds prevented full recovery of the fraudulently obtained funds.

## **MIAMI MONEY LAUNDERING INVESTIGATION-BID RIGGING-BRIBERY**

Another example of how these shell corporations are utilized for criminal activity is illustrated in a Miami office investigation. In this investigation, the violators utilized shell corporations to defraud the Government of Trinidad and Tobago out of more than \$100,000,000. The foreign and domestic shell companies enabled them to engage in a bid-rigging scheme and then launder the fraudulently obtained proceeds. In this “bid-rigging” fraud scheme, the co-conspirators bribed members of a Trinidad and Tobago bid committee of the Piarco International Airport in order to win a competitive construction bid. The U.S. targets of the investigation operated a construction company and architectural firm in South Florida, which submitted a competitive bid for work in the construction of the airport. A Trinidadian Government Accessor believed the bid was too high and requested that the bid committee obtain a second bid. As a result, the targets of the investigation utilized a shell company to submit a second, much higher valued bid for the work. As a result of this much higher second bid, the contract was awarded to the targets of the investigation.

Once they had been paid by the Trinidadian Government, they laundered the proceeds of the fraud by layering them through a series of shell companies in the Bahamas, Lichtenstein, and the United States. Through handwritten notes kept by Bahamian bankers, ICE investigators identified the true beneficiaries of the funds. Six of eight indicted individuals were found guilty of violating money laundering, and wire fraud statutes. The two remaining indicted individuals are still pending extradition to face the charges. As part of the sentence, the court ordered approximately \$22 million in restitution be paid, but the majority of that ordered restitution has not been realized.

## **NATIONAL INITIATIVE - OPERATION PAYCHECK – DISGUISED PAYMENTS TO ALIEN WORKERS**

In July 2006, ICE launched Operation Paycheck, a national initiative designed to combat criminal schemes involving the exploitation of the financial industry by businesses to pay the wages of illegal alien workers. Through ICE investigations, numerous financial schemes have been uncovered throughout the U.S., such as money laundering, structuring funds into and out of financial institutions, and the operation of unlicensed Money Service Business (MSB) to disguise the payment of illegal alien workers. To combat this threat, all ICE Offices of Investigations are leveraging their combined investigative expertise in financial crimes and worksite enforcement to identify, disrupt, and eliminate organizations seeking to exploit our financial industry to facilitate the employment of illegal aliens.

In most cases identified, many involving the construction industry in the southeastern U.S., the employer of illegal aliens establish shell companies that appear to operate as sub-contractors of the actual employer. The employers are then able to pay the shell company for their services, often in the form of one large check or numerous checks. The shell company (sub-contractor) then cashes the check or checks, frequently through a culpable MSB, and pays the illegal alien workforce in cash. In most instances, the person or persons posing as the sub-contractor charge a fee for this service, as does the culpable MSB.

This type of scheme may also involve a host of other state and federal violations. For example, by using the shell company and the payment of the illegal alien workers in cash, the employers avoid withholding state, federal, and social security taxes from employee's paychecks in violation of state and federal tax and labor laws.

## **CONCLUSION**

As noted in our testimony, the use of shell companies to engage in illicit activities, including money laundering and financial fraud, presents a number of investigative challenges for law enforcement. The lack of transparency and information on beneficial ownership of these entities has made their use an ideal mechanism for money laundering and the commission of other illegal activities, and has allowed criminals an entry into our financial system. Greater transparency of beneficial ownership of corporate entities and providing law enforcement reasonable access to this information would greatly assist our efforts to combat the use of shell companies for illegal activities.

I would like to thank the Committee Members for this opportunity to testify and for your continued support of ICE, CBP, DHS and our law enforcement mission. I will be happy to answer any questions that you may have at this time.