



PROGRAM MATERIALS

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Litigation Series: From Cartels to Commerce: How Drug Money Moved Through the U.S. Financial System

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From Cartels to Commerce

How Drug Money Moved Through
the U.S. Financial System

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Background

- Picture this. The date is July 2, 1991. You walk into a cavernous room that is half the size of a football field. Inside that room are rectangular tables that extend from one side of the room to the other. Piled upon these tables are stacks of United States dollars. The stacks are as high as moguls on a ski slope and completely envelope the table's surface. The dollars make a level surface for most of the distance, except for the occasional dip. In the center of this vast room is a speaker's podium.

Background

- Dangling around your neck is a coveted press pass with your name and the name of your employer, The Miami Herald. As you enter the room, you walk towards the speaker's podium. On the ground, in front of the speaker's podium, are bags stacked one upon another reaching higher than the tops of the tables. These bags bear the indelible markings of the Federal Reserve. Although nothing green can be observed, a casual observer would not have to guess what is inside them: cold, hard cash.

Background

- The occasion is a press conference announced by the United States Customs Service in Miami, to herald the seizure of one of the largest amounts of drug dollars ever seized in the United States from the cocaine cartels. The total amount from this seizure was \$22 million, all in United States currency.

Background

- If you thought that this money was destined to be placed upon a Gulfstream G650 and flown to Columbia, you'd be sadly mistaken. Instead, it was intended for a highly sophisticated and secretive system for laundering drug dollars which, back in 1991, had just recently been recognized as a serious threat to both the United States and Columbia.

Background

- For many years, the American anti-drug rallying cry has been the “war on drugs,” with Colombian cocaine being the chief target. However, in the mid-1980s, the United States government expanded the reach of its law enforcement agencies to target drug proceeds. Anti-money laundering statutes were the chief weapon introduced by the United States to squelch this insidious threat. One target of this weapon was the billions of dollars generated annually by the Colombian cocaine cartels, and introduced into its principal laundering vehicle – the Colombian Black Market Peso Exchange (BMPE).

Background

- This presentation reveals how the Black Market Peso Exchange came to be. It is a two-part series. Part Two discusses the mechanics of the Black Market Peso Exchange.

Background

- The BMPE, as used by the cartels, is the single most efficient and extensive money laundering system in the Western Hemisphere. Back in 1999, the United States Department of the Treasury's Financial Crimes Enforcement Network warned that, "this underground financial and trade financing system is a major – perhaps the single largest avenue for the laundering of the wholesale proceeds of narcotics trafficking in the United States."

Background

- The American cocaine industry has been estimated to be over a fifty billion dollar a year industry. As cocaine enters the United States through major source cities and makes its way to Main Street USA, the money trail follows a reverse flow, ending in major cities like Los Angeles, New York City, and Miami. In these cities, hundreds of thousands of bills in five, ten, and twenty-dollar denominations accumulate, awaiting their next change of ownership. The irony is that although this money belongs to the Colombian cartels, most of it will never leave the United States.

Background

- To be sure, the money that accumulates in the United States belongs to the cartels. The cartels that have produced and shipped the cocaine now await the money that they are owed. The cartels need this money in Colombia in order to pay their operating expenses. It's their life-blood. The great dilemma for the cartel is how to get their million dollars located in Miami to Cali or Medellin, and convert it into pesos.

Background

- While the cartel was confronting this dilemma, there were many Colombian people that needed dollars in the United States. In 1967, out of fear that Colombia's dollar reserves were depleting, resulting in inflation, the Colombian government passed Decree Law # 444. Decree Law # 444 limited Colombians in the amount of United States dollars they could purchase annually from the National Bank (the only legal source of United States dollars in Colombia).

Background

- Decree Law # 444 also required purchasers to pay a premium exchange rate to obtain dollars from the government. Finally, Decree Law # 444 required importers to disclose the types of items being imported, which resulted in purchasers making additional payments of taxes and duties to the government. This law eventually led to the creation of the Black Market Peso Exchange.

Background

- Originally, the BMPE in Colombia served as a way to send money to friends and relatives living in the United States, as well as a way for Colombians to accumulate stable United States dollars as a hedge against an unstable Colombian Peso. During this period, dollars were purchased by black marketers from American tourists who were visiting Colombia or from American businessmen. These tourists and businessmen were paid a premium above the official government exchange rate. The black marketers then sold these dollars to their Colombian clients at a percentage above the rate they paid, which was still cheaper than the government price of the dollars at the national bank.

Background

- During the 1980s, two groups came together – the black marketers who needed dollars in the United States and the cartel families who needed pesos in Colombia. The result was the BMPE. The BMPE has been estimated to handle up to eighty-five percent of the money owed to cartels from the sale of cocaine in the United States. The billions of drug dollars from nationwide drug sales that flow back to major cities like Miami, New York, and Los Angeles do not remain idle like a rock gathering moss. Instead, they are used to purchase machinery, electronic items, and other equipment for Colombian industry and business.

THE MECHANICS

The Mechanics

- While money laundering is a single process, it has three stages:

1. THE PLACEMENT STAGE

1. The Placement Stage

- This is where the “dirty” money or cash proceeds of criminal activity first enter the mainstream financial system. Criminals cannot afford to hold on to and safeguard large amounts of cash. At this stage the money launderer is most vulnerable as financial officials are on the lookout for suspicious cash transactions.

1. The Placement Stage

- In the placement stage, criminals strive to defeat the threshold reporting regulations by, among other methods, using so-called “Smurfs,” who, according to one piece in About Business Crime Solutions, Inc.:
“...exchange illicit funds (in smaller, less conspicuous amounts) for highly liquid items such as traveller cheques, bank drafts, or deposited directly into savings accounts.”

2. THE LAYERING STAGE

2. The Layering Stage

- Here is where money laundering gets fast and complicated. The purpose of this stage is to separate the dirty money from its illegal source. By sophisticated financial legerdemain, the money is moved and transformed in a way to foil any audit trail. During the layering stage the money can go from one country to another, divide into investments and move on quicker than regulators can react.

3. THE INTEGRATION STAGE

3. The Integration Stage

- This is the last stage, and it completes the cycle by returning the money to the criminal from apparently reputable sources. Through placement and layering, the cash is now fully integrated into the financial system. In the integration stage the criminal and his ill-gotten gains are reunited in ways that do not draw attention and appear to be from legitimate sources.

3. The Integration Stage

- The BMPE consists of two interrelated activities. One occurs in Colombia: the purchase of accumulated drug dollars in America. And the other occurs in the United States: the actual delivery of drug dollars to the money exchanger's associate in the United States.

PURCHASE OF DOLLARS IN COLOMBIA

Purchase of Dollars in Colombia

- The BMPE process begins when the cartel financial manager is contacted by his cartel representative in the United States, and advised that a particular trafficking organization in Miami is ready to turn over money owed to the cartel. For purposes of this example, a figure of \$ 1 million will be used. The cartel financial manager notifies money brokers in Colombia of the \$ 1 million available in Miami.

Purchase of Dollars in Colombia

- A money broker may purchase the \$ 1 million at a discounted rate of exchange of 1500 pesos to the dollar (given an official exchange rate of 1800 pesos to the dollar), and is given thirty days after delivery to remit the 1.5 billion pesos to the cartel financial manager. The money broker then will notify money exchangers in Colombia of the \$ 1 million available in Miami. Four different money exchangers may individually purchase \$ 250,000 each of the \$ 1 million dollar lot at a discounted rate of exchange of 1600 pesos to the dollar (compared to the official exchange rate of 1800 pesos to the dollar).

Purchase of Dollars in Colombia

- The money exchangers then notify their clients, who are likely to be Colombian businessmen and tourists, that they have dollars available in Miami. Five different customers may individually purchase \$ 50,000 each of the money exchanger's \$ 250,000 lot at a discounted rate of 1700 pesos to the dollar (compared to the official rate of 1800 pesos to the dollar). When placing this order, the customer specifies the manner of delivery. The customer will pay the money exchanger in pesos when the delivery has been confirmed.

Purchase of Dollars in Colombia

- The pesos received are then forwarded to the cartel family financial manager. In this method, the cartel family receives the proceeds of their cocaine distribution activities without the dollars ever leaving the United States.

DELIVERY OF DOLLARS IN MIAMI

Delivery of Dollars in Miami

- Once the \$ 1 million dollars available in Miami has been sold, the drug trafficker must deliver it to its new owner, the money exchanger and his “associate” in Miami. How does the drug trafficker know who to deliver this money to? Can any person approach the drug trafficker and say, “show me the money?” Of course not. The drug trafficker is extremely cautious about revealing his identity, not only for fear of being arrested but also because he does not want to get robbed.

Delivery of Dollars in Miami

- A secretive system of code words, fake names, forwarding of beeper numbers, and covert meetings between unknown parties occur which culminates with the delivery of money to the money exchanger's associate in Miami. For example, when the money exchanger purchases \$ 250,000 from the money broker, he will give the money broker the pager number of his associate in Miami, who will receive the money. The money broker forwards this pager number to the cartel financial manager, who passes it on to the drug trafficker. The trafficker is instructed to deliver \$ 250,000 to whoever responds to the beeper number and gives the correct code word.

Delivery of Dollars in Miami

- Next, the trafficker in Miami will contact the associate in Miami via the beeper number, placing the number of a payphone and a numerical code into the beeper. The associate will recognize the numerical code as belonging to an anticipated money delivery and will know which code word to respond with. He will call the number in his pager and have a short, cryptic conversation with the trafficker.

Delivery of Dollars in Miami

- Once the correct code word is given by the associate, the trafficker will confirm the amount of the delivery. The trafficker will arrange a meeting with the associate. At the meeting location, once the trafficker has identified the associate, he may approach him with a bag, box, or suitcase full of money. At this point, the trafficker may verify the associate by asking his name and password. Upon proper verification, the trafficker will turn the money directly over to him and leave, never to meet again.

Delivery of Dollars in Miami

- Once the money exchanger's associate has received the box, bag, or suitcase full of money, the placement or initial laundering of money begins. Placement has been called "the most difficult step for would-be money launderers." Through the placement phase, the associate further conceals the illegal source of the money by placing it into the stream of commerce in the manner requested by the money exchanger's client.

**ANTI MONEY-LAUNDERING
CRIMINAL STATUTE**

Anti Money-Laundering Criminal Statute

- Under § 1956, there are three categories of offenses:
 - Domestic money laundering (§ 1956(a)(1));
 - International money laundering (§ 1956(a)(2)); and
 - Government sting operations, involving property represented by a law enforcement officer to be the proceeds of illegal activity (§ 1956(a)(3))

Anti Money-Laundering Criminal Statute

- In general, § 1956 criminalizes commercial transactions where goods or services are provided in exchange for “dirty money” with certain knowledge or intent. § 1956 also prohibits transporting or transmitting “dirty” monetary instruments, including U.S. currency, into or out of the U.S. with certain knowledge or intent.

Anti Money-Laundering Criminal Statute

- § 1956(a)(1): Deals with financial transactions involving the proceeds of some specified unlawful activity.
- § 1956(a)(2): Deals with cross border transfers of monetary instruments or funds from a place in the U.S. to or through a place outside the U.S.
- § 1956(a)(3): Deals with: (i) promoting or carrying on specified unlawful activities; (ii) concealment; or (iii) avoiding a transaction reporting requirement under state or federal law.

Anti Money-Laundering Criminal Statute

- Elements of proof for § 1956 crimes:
 - First, knowledge that the property involved in a financial transaction comes from a specified unlawful activity;
 - Second, the property involved must be the proceeds of a specified unlawful activity;
 - Third, a financial transaction must occur; and
 - Fourth, a prohibited activity must occur.

Anti Money-Laundering Criminal Statute

- The prohibited activities include that:
 - The transaction will promote the carrying on of the specified unlawful activity;
 - The transaction is designed to conceal or disguise the nature, location, source, control, or ownership of the proceeds; or
 - The transaction is designed to avoid a transaction reporting requirement.

DEFENDING AGAINST CHARGES OF MONEY LAUNDERING

Defending Against Charges of Money Laundering

- Anyone who is an unwitting participant in the complicated process of money laundering could be the subject of a criminal investigation. Money laundering is, of course, a crime. So any defense available to any other criminal charge can be applied to money laundering. For example:

Defending Against Charges of Money Laundering

- Lack of intent to commit the crime. People who handle money — accountants, bankers, etc. — can be involved unknowingly in any stage of the money laundering process. The defense needs only to prove that the accused was unaware that the money involved was from illegal sources.

Defending Against Charges of Money Laundering

- Duress or Intimidation. A defendant who believes that some harm may come to his or her person or family by refusing to participate in the crime of money laundering can plead not guilty to money laundering.

Defending Against Charges of Money Laundering

- Lack of or insufficient evidence. To be convicted of money laundering, the prosecution must prove that the defendant intended to cover up the source of the illegal funds. Also, the prosecution must prove that the laundered funds came from some illegal activity.

A REAL-WORLD EXAMPLE

A Real-world Example

- Several years ago, I had the unique opportunity of working on a large-scale money laundering case that was litigated in federal court. This case was “hands down” one of the most defining moments of my career. I was a bright-eyed and bushy-tailed attorney fresh out of law school when this “once in a lifetime” opportunity to become a part of the criminal defense team in such a high-profile case presented itself. It inspired me to become a criminal defense attorney focusing on white collar crimes.

A Real-world Example

- As a way of background information, a primer on Reporting and Structuring is necessary. Most businesses that make large cash deposits are familiar with the infamous Form 8300. If any entity makes a cash deposit of over \$10,000, it's required to self-report the transaction to the IRS. Form 8300 is essentially a red flag for law enforcement that criminal activity, such as money laundering, may be crouching at the door.

A Real-world Example

- Under federal law, it's illegal to make a \$10,000 cash deposit and not report it. It's also illegal to make a deposit of less than this amount with the intent to evade the reporting requirement. That's when conduct known as "structuring" enters our story.

A Real-world Example

- Banks and other financial institutions are required to file Suspicious Activity Reports if they believe that there is, well, suspicious activity. On one end, Guido makes a \$9,999 deposit. On the other end, Grandma Jones makes a \$20 deposit. Guido's visit to the bank should do more than raise a few eyebrows, since it seems fairly clear that he is a bit hesitant to draw attention to himself by filing Form 8300, while Grandma Jones' transaction could hardly be considered suspicious.

A Real-world Example

- This analysis leaves a large number of transactions in a grey area. What about the grocer who deposits about \$4,000 in regular intervals every other week? According to law enforcement, the grocer could be structuring his transactions to avoid detection. At the same time, banks tend to err on the side of caution by filing lots of SARs, so there are plenty of bank statements for federal investigators to review.

A Real-world Example

- According to one advocacy group, this convergence is one reason that asset forfeitures mushroomed by 500 percent in the last ten years. Multiple media reports indicate that dairy farmers, restaurant owners and other who have no plausible connection to illegal activity have had substantial cash assets seized under the new aggressive policy. It is worth mentioning that the law enforcement agency gets to keep a portion of the seized assets.

A Real-world Example

- The facts have been tweaked slightly and the names have been altered to protect the privacy of the parties. John Doe was the president and CEO of ABC Computer Company, a computer distribution company. ABC Computer had contracts to sell desktop computers to various school districts in New Jersey. Like most successful businesspeople, Mr. Doe was a visionary and had hoped to turn ABC into a global leader in the computer distribution marketplace. He realized that the burgeoning computer market in Latin America was a fertile place to start. Mr. Doe exported computers and computer parts to Columbian businessmen who owned legitimate computer retail businesses in Bogota and Cali.

A Real-world Example

- The Columbian businessmen purchased dollars from Colombian money exchangers at a discounted rate that was substantially less than Colombia's official exchange rate. The Colombian businessmen directed these money exchangers to deliver cash to ABC Computer Company as payment for the computers they received. This is how they paid ABC Company for the shipments they received.

A Real-world Example

- A few times a month, the money exchanger's associate (Mr. Smith) would show up at ABC Computer with a suitcase or duffel bag. These suitcases or duffel bags were stuffed with hundreds of thousands of dollars in U.S. currency – in small denominations. This cash was the proceeds of street-level narcotics transactions.

A Real-world Example

- Mr. Doe deposited this cash into various business accounts belonging to ABC. On a single day, he would make multiple cash deposits into two or more bank accounts at the same bank, with each deposit exceeding \$ 10,000. As you might have been quick to recognize, deposits in excess of \$ 10,000 trigger a Form 8300 reporting requirement. Bank personnel advised Mr. Doe that he must file a Form 8300.

A Real-world Example

- Concerned about revealing the source of the cash due to the “shady” way in which it was being delivered, Mr. Doe reported receiving the cash from individuals other than the actual person who delivered it. For example, in an effort to lend apparent legitimacy to the transaction, Mr. Doe reported receiving the cash from Meghan Connolly, the CEO of UCC in Miami, a subsidiary of ABC, and not from Mr. Smith.

A Real-world Example

- Irregularities on the Form 8300s submitted by ABC led a representative from the IRS to schedule a meeting with Mr. Doe to explain the reporting requirements in detail and to instruct him on the proper way of completing a Form 8300. Specifically, she emphasized three points: first, that a single deposit in the amount of \$ 10,000 automatically triggers the filing of a Form 8300; second, that multiple deposits into two or more ABC accounts on a single day also triggers the filing of a Form 8300 if the aggregate amount of all deposits exceeds \$ 10,000, even if no single deposit does; and third, that the section requiring the filer to identify the person from whom the cash was received was literal – i.e., that it referred to the person who actually delivered the money, even if that person was delivering the money on behalf of another.

A Real-world Example

- A short time later, Mr. Doe ceased depositing cash in amounts greater than \$ 10,000. In what the government would later refer to as “erratic conduct,” Mr. Doe hastily began opening up new bank accounts at different banks in the tri-state area. Mr. Doe provided the money exchangers with the account numbers to these bank accounts. The money exchangers forwarded these account numbers to Mr. Smith.

A Real-world Example

- Mr. Smith traveled to as many as four banks a day to deposit cash, never depositing more than \$ 10,000 at any one bank on a single day. In that way, none of the deposits – taken together or apart – triggered the bank's duty to file a report or keep a record. Several million dollars was deposited into ABC business accounts this way.

A Real-world Example

- Upon receipt of the cash, the Colombian businessmen paid the money exchangers in pesos. This went on for several years until one summer night in July 20___. That night, Mr. Smith was pulled over by the police while driving back from Miami. A consent search of the car was subsequently conducted. Officers found several suitcases stuffed with over \$ 1.0 million in cash inside the trunk of Mr. Smith's car. Also found inside the car was a briefcase containing deposit slips for ten different bank accounts, with each deposit slip already filled out in amounts under \$ 10,000.

A Real-world Example

- The cash was separated into bundles, each bundle wrapped with a rubber band and containing a deposit slip. The deposit receipts belonged to several different bank accounts. All of the account numbers on the deposit receipts reverted back to ABC.

A Real-world Example

- The next day, the FBI applied for and received a search warrant for Mr. Smith's apartment. They seized 340 kilos of cocaine. The FBI subsequently applied for and received a search warrant for ABC Company. They seized computers and financial documents.

A Real-world Example

- Mr. Doe was charged with (1) conspiracy to commit money laundering under 18 U.S.C. § 1956; (2) conspiracy to structure transactions to evade the CTR reporting requirements in violation of 31 U.S.C. § 5324(a)(3); and (3) conspiracy to structure transactions to evade the Form 8300 reporting requirements in violation of 31 U.S.C. § 5324(b).

A Real-world Example

- After a four-month long trial, a jury found Mr. Doe guilty of conspiracy to commit money laundering in violation of 18 U.S.C. § 1956 and structuring transactions to evade the CTR reporting requirements in violation of 31 U.S.C. § 5324(a)(3). What follows is a summary of the Government's case, along with the evidence that was presented to prove that Mr. Doe knew of the reporting requirements and evaded them.

THE GOVERNMENT'S CASE

The Government's Case

- The government's case was purely circumstantial. They presented evidence for the jury to infer that Mr. Doe had the requisite intent to structure – namely, that Mr. Doe knew that the banks had a duty to report transactions over \$ 10,000 and that he broke down cash transactions to amounts under \$ 10,000 in order to evade these requirements. This evidence was introduced in the form of oral testimony and various banking documents. For example, the government's witness list consisted of bank officers, an IRS agent, and a snitch. The government's exhibits exceeded 10,000, consisting primarily of CTRs, Form 8300s, deposit slips, and deposit receipts.

The Government's Case

- The government presented the following evidence, in addition to a pattern of large cash deposits below the CTR threshold, to prove knowledge and intent. First, in a “textbook-style” structuring scheme, Mr. Doe made multiple cash deposits into different bank accounts at the same bank on the same day, such that the total of these deposits aggregated to more than \$ 10,000, even though no single transaction did. Second, after learning that this conduct did not free the bank from its duty of filing a CTR, Mr. Doe abruptly ceased depositing cash in this way.

The Government's Case

- Mr. Doe turned to “structuring,” never depositing more than \$ 10,000 into the same bank on a single day. But that presented a problem. On the one hand, hundreds of thousands of dollars in cash were being delivered every two weeks. On the other hand, a \$ 50,000 weekly cap on deposits meant that no more than \$ 50,000 could be deposited into the same or different bank accounts at the same bank during a one-week period, without triggering the bank's duty to file a CTR. At that rate, it would take nearly four months just to deposit a one-time delivery of \$ 800,000. Without the ability to deposit cash into its account regularly, ABC could not run its business. Very simply, it could not make payroll and pay its suppliers.

The Government's Case

- This caused Mr. Doe to open up new checking accounts at different banks. By doing so, he could deposit more than \$ 10,000 into the financial system on any given day without triggering the bank's duty to file a CTR. This was accomplished by splitting up a cash hoard between two or more different banks on a single day such that the aggregate of the transactions exceeded \$ 10,000, but that the amount deposited into a single bank did not. Thus, the number of sub-\$10,000 deposits that could be made on a single day was only limited by the number of banks that held ABC checking accounts.

The Government's Case

- The government presented evidence that Mr. Doe instructed Mr. Smith to travel to as many as four different banks a day to make sub-\$10,000 cash deposits. In that way, almost \$ 40,000 was deposited in a single day. The government argued that Mr. Doe sacrificed efficiency and convenience for no justifiable reason – what some Circuit Courts consider to be a strong indication of intent to structure. For example, in *United States v. Gibbons*, the Eighth Circuit Court of Appeals explained that the cashing of multiple checks where one would have been more efficient leads to the inescapable conclusion that the defendant sought to evade the reporting requirements.

The Government's Case

- Third, the deposit receipts, deposit slips, and stacks of money found in the briefcase inside Mr. Smith's car was damning. It suggested that Mr. Doe intended to evade the currency transaction reporting requirement by conspiring with Mr. Smith. The deposit receipts contained account numbers that could be traced back to ABC Company. The deposit receipts also confirmed that deposits were being structured in amounts below \$ 10,000 to avoid the reporting requirements. For example, the receipts revealed that \$ 80,000 was deposited into ten different bank accounts in increments of \$ 8,000.

The Government's Case

- The remaining cash found in Mr. Smith's briefcase was broken down into several bundles. Each bundle contained a deposit slip, with a different account number, indicating that the money was intended to be deposited into separate accounts. Like the deposit receipts, the deposit slips contained account numbers that could be traced back to ABC Company. The government argued that Mr. Doe's use of so many accounts in an organized manner was circumstantial evidence of his willful intent to avoid the reporting requirement.

**MR. DOE'S DEFENSE TO CONSPIRACY
TO COMMIT MONEY LAUNDERING**

Mr. Doe's Defense to Conspiracy to Commit Money Laundering

- 18 U.S.C. § 1956(a) has four elements.
 - First, the defendant must know that the property involved in the financial transaction represents the proceeds of some form of unlawful activity.
 - Second, the property involved must be the proceeds of a specified unlawful activity.
 - Third, a financial transaction must occur; and
 - Fourth, a prohibited activity must occur. Prohibited activities include:
 - 1) transactions that will promote the carrying on of the specified unlawful activity;
 - 2) transactions designed to conceal or disguise the nature, location, source, control, or ownership of the proceeds; or
 - 3) transactions designed to avoid a transaction reporting requirement.

Mr. Doe's Defense to Conspiracy to Commit Money Laundering

- Of these four elements, none is more litigated than the mens rea element. An important distinction must be made with respect to that element. The government need not prove which form of unlawful activity the property is the proceeds of so long as it represents the proceeds of some form of unlawful activity. Thus, the government need not prove that a defendant specifically knew that the property involved in the transaction represented the proceeds of drug trafficking.

Mr. Doe's Defense to Conspiracy to Commit Money Laundering

- To prove knowledge, the government relied on the theory of willful blindness – i.e., that Mr. Doe dug his head into the sand like an ostrich to deliberately keep himself ignorant of the fact that the money was the proceeds of illegal activity. Knowledge may be shown by proof of “willful blindness, deliberate ignorance, or conscious avoidance.” The proofs, together with the government’s argument at closing, strongly suggest that the jury verdict rested on willful blindness.

Mr. Doe's Defense to Conspiracy to Commit Money Laundering

- The defense argued that there was no evidence that Mr. Doe knew that the payments for computer parts were the proceeds of narcotics trafficking, let alone some other form of unlawful activity. No witness at trial testified that they told Mr. Doe that the cash they were delivering was drug money. The closest the government came to proving knowledge was through the testimony of Mr. Smith. But there were a number of problems with Mr. Smith's testimony. First, Mr. Smith never stated, under oath, that Mr. Doe knew. Even viewing his testimony in a light most favorable to the government, he merely implied that Mr. Doe knew.

Mr. Doe's Defense to Conspiracy to Commit Money Laundering

- More importantly, Mr. Smith's testimony was inherently untrustworthy. He was an undocumented Immigrant who was facing up to life in prison and deportation as a result of his drug trafficking and money laundering activities. Mr. Smith was caught red-handed with 119 kilos of cocaine and over \$ 1.6 million in cash. His motive to testify falsely in order to protect his own hide was at an all-time high and his testimony at trial reeked of desperation.

Mr. Doe's Defense to Conspiracy to Commit Money Laundering

- Mr. Smith's motivation became transparent as the terms of his "deal" were revealed. The most hair-raising part of the deal was what he was not charged with. Mr. Smith worked as a drug trafficker for over a year. By his own admission, he transported and distributed over 340 kilos of cocaine. Notwithstanding, Mr. Smith was not charged with distributing 340 kilos of cocaine. In fact, he was not even charged with the 119 kilos that were seized from his home. Rather, he was charged with a mere 50 kilos.

Mr. Doe's Defense to Conspiracy to Commit Money Laundering

- Not only was Mr. Smith charged with just 50 kilos, but the government agreed not to charge him with money laundering – a crime that carries up to twenty years in prison. Facing up to life in prison for drug trafficking, up to twenty years for money laundering, and inevitable deportation, Mr. Smith was prepared to say whatever the government needed him to say – regardless of whether it was true or not – in order to limit his exposure.

Mr. Doe's Defense to Conspiracy to Commit Money Laundering

- In summary, Mr. Smith was not charged with the full weight of the drugs, nor was he charged with money laundering. And the government sweetened the pot even more: Mr. Smith anticipated receiving relief from deportation.

Mr. Doe's Defense to Conspiracy to Commit Money Laundering

- Mr. Smith's testimony was completely unreliable and uncorroborated. At the outset, he said that he bought a phony passport and came to America for political asylum because he feared for his life and that of his family, because of the constant threat of Colombian Guerillas. Upon arrival, he surrendered at the airport to federal Immigration officials and was provisionally released, pending a final hearing under two conditions. First, he had to maintain a residence and inform Immigration of that residence. And second, under no circumstances could he commit a crime.

Mr. Doe's Defense to Conspiracy to Commit Money Laundering

- Incredibly, the same man who was deathly afraid of the guerillas and feared for the safety of both himself and his family threw caution to the wind by violating both of the conditions necessary to stay in the country – he established a new residence outside of the state of New Jersey without the knowledge or consent of Immigration where he began his career as both a drug dealer and a money launderer. This hardly depicted a man desperate to keep himself and his family out of harms way.

Mr. Doe's Defense to Conspiracy to Commit Money Laundering

- Mr. Smith's testimony became more and more incredulous as the trial wore on. He claimed that Mr. Doe asked him to make a two thousand dollar deposit at a specific trust bank in New York City because Mr. Doe did not believe it was "safe" for him to store it at his office. It is hard to imagine that the president of a company whose gross receipts exceeded \$ 50 million in 20__ suddenly became skittish over two thousand dollars. Even setting aside the implausibility of this story, there was no evidence deduced at trial that a trust account in the name of Mr. Doe even existed.

Mr. Doe's Defense to Conspiracy to Commit Money Laundering

- Mr. Smith also testified that he had a direct face-to-face conversation with Mr. Doe, where Mr. Doe allegedly told him not to tell Maureen Franks (a co-conspirator) about his deliveries for other customers. But Mr. Doe's travel records confirmed that he was out of the country at the time of this communication.

Mr. Doe's Defense to Conspiracy to Commit Money Laundering

- These instances were but a sample of the incredible story that Mr. Smith wove at trial. The court properly instructed the jury to view Mr. Smith's testimony with extreme caution and great care because cooperators, such as Mr. Smith, possessed a motive to exaggerate or testify falsely. The defense was quick to pounce on this instruction arguing that Mr. Smith was not a credible witness.