

MEMORANDUM OF UNDERSTANDING BETWEEN THE FEDERAL BUREAU OF INVESTIGATION, THE OFFICE OF THE COMMISSIONER OF FINANCIAL INSTITUTIONS OF THE COMMONWEALTH OF PUERTO RICO, AND THE UNITED STATES ATTORNEY'S OFFICE FOR THE DISTRICT OF PUERTO RICO ON THE REFERRAL, INVESTIGATION, AND PROSECUTION OF CASES INVOLVING MONEY LAUNDERING AND RELATED FINANCIAL CRIMES

I. PURPOSE

This Memorandum of Understanding (MOU) between the FEDERAL BUREAU OF INVESTIGATION, hereinafter referred to as the FBI, the OFFICE OF THE COMMISSIONER OF FINANCIAL INSTITUTIONS OF THE COMMONWEALTH OF PUERTO RICO, hereinafter referred to as OCFI, and the UNITED STATES ATTORNEY'S OFFICE FOR THE DISTRICT OF PUERTO RICO, hereinafter referred to as USAO, sets forth the responsibilities of each participant regarding the referral, investigation, and prosecution of matters and cases involving money laundering, investment fraud, financial institution fraud, mortgage fraud, and related financial crimes.

II. DESCRIPTION OF PROBLEM

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The complexity of investigations involving money laundering, investment fraud, financial institution fraud, mortgage fraud, and related financial crimes in Puerto Rico, requires cooperation and collaboration of federal and local government entities to effectively combat the same. The USAO and the FBI remain committed to the development of investigations that target money laundering, investment fraud, financial institution fraud, mortgage fraud, and related financial crimes. The successful prosecution of these complex and high-profile cases will strengthen the working relationship between the FBI, the OCFI, the USAO, and other federal and state government entities.

The OCFI has a significant role in the implementation of an effective strategy against financial crimes in Puerto Rico. The OCFI is responsible for the regulation, supervision and oversight of the financial system in Puerto Rico, and the strict compliance with all applicable laws and regulations. The OCFI insures the financial industry's liquidity, stability and ability to compete in world markets, promotes Puerto Rico's socioeconomic development, and safeguards public interest. The OCFI also promotes a modern, flexible and unburdened financial public policy which will insure the balance and fairness between the competing interests of depositors, shareholders, investors and customers of the financial services offered in Puerto Rico.

The parties agree that an effective strategy to combat money laundering, investment fraud, financial institution fraud, mortgage fraud, and related financial crimes in Puerto Rico must be based on a joint effort. This concerted effort will allow the use of investigative and legal resources from both the federal and state governments to achieve mutually beneficial results.

III. FEDERAL STATUTES

There are several Federal criminal statutes, which are applicable in the civil and criminal prosecution of money laundering, investment fraud, financial institution fraud, mortgage fraud, and related financial crimes. The most frequently used statutes include the following:

1. **Money Laundering** - 18 U.S.C. §§ 1956 and 1957

2. **Currency Reporting Offenses** - Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*

Sections 5313 and 5324(a) - failure to file a currency transaction report (CTR) on cash transactions involving more than \$10,000; filing a false report; or structuring a transaction to evade the reporting requirement.

Sections 5316 and 5324(b) - failure to file currency and monetary instrument reports (CMIR) with the U.S. Customs Service at border crossings; filing a false report; or structuring a transaction to evade the reporting requirement.

3. **Bank Frauds and Related Offenses**

Embezzlement, Abstraction, Purloining or Willful Misapplication -- 18 U.S.C. §§ 656 and 657;

False Statements - 18 U.S.C. § 1014

False Entries - 18 U.S.C. §§ 1005 and 1006

Bank Bribery - 18 U.S.C. § 215

Bank Fraud - 18 U.S.C. § 1344

4. **Bankruptcy Fraud** - 18 U.S.C. §§ 152-157

5. **Unauthorized Access of a Computer** - 18 U.S.C. §§ 1030(a)(2), (a)(4), (a)(5)

6. **Mail Fraud** - 18 U.S.C. Section 1341

7. **Wire Fraud** - 18 U.S.C. 1343

8. **Racketeer Influenced and Corrupt Organizations** - 18 U.S.C. §§ 1961-68

9. **Fraudulent Use of a Credit Card** - 15 U.S.C. § 1644; 18 U.S.C. § 1029.

10. **Securities Fraud** - 18 U.S.C. § 1348-1350 (2002).

IV. GOALS

It is mutually agreed that a MOU should be subscribed to cover matters involving money laundering, investment fraud, financial institution fraud, mortgage fraud, and related financial crimes in order to promote joint efforts in the investigation and prosecution of said matters. It is mutually agreed that the parties to this MOU will effectively coordinate, as appropriate, their respective investigations to assist each other in fulfilling their own missions and responsibilities. It is further agreed that the parties will coordinate and bring to bear each participant's combined expertise and investigative resources to combat money laundering, investment fraud, financial institution fraud, mortgage fraud, and related financial crimes in Puerto Rico.

V. IMPLEMENTATION

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The FBI, the OCFI and the USAO will develop and exchange those additional instructions and internal operating procedures that are deemed necessary to the continued implementation of this MOU with the primary goal of a coordinated, efficient and effective federal response to the problems of money laundering and financial crimes in Puerto Rico. In accordance with the terms of this MOU, the FBI and the USAO will establish and develop a case referral program with the OCFI. Each participant will designate, in writing, a point of contact to handle the matters covered by this MOU within 5 days from its signing.

VI. RESPONSIBILITIES


A. UNITED STATES ATTORNEY'S OFFICE

The USAO has the primary responsibility and jurisdiction to prosecute all violations of federal law involving money laundering and related financial crimes. It is therefore understood that the USAO shall:

1. In coordination with the FBI, develop specific criteria and guidelines for the types of cases that will be given priority for prosecution by the USAO.
2. In order to efficiently prosecute meritorious cases, the USAO shall set forth in writing the criteria, which will serve as a guide to determine the priority of the prosecutions and the declinations policies. The United States Attorney may unilaterally alter these criteria, in order to reflect United States Department of Justice priorities.
3. Along with the FBI, develop and implement a training program for OCFI personnel.
4. Coordinate and evaluate with the USAO's Civil Division's Affirmative Civil Enforcement program the potential filing of civil actions for the imposition of monetary penalties in matters referred pursuant to the terms of this MOU.

B. FEDERAL BUREAU OF INVESTIGATION

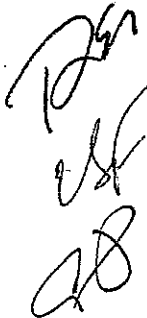
The FBI will have investigative jurisdiction for all violations of federal law involving money laundering and related financial crimes. The FBI will coordinate this investigative responsibility with the designated point of contact in the OCFI and USAO, as appropriate. It is therefore understood that the FBI shall:

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1. Facilitate the referral of cases from the OCFI where the FBI has investigative jurisdiction by:
 - a. Identifying cases that merit a federal response so that they can be referred to the USAO for prosecution.
 - b. Documenting any OCFI case referral, which warrants FBI investigative action in the judgment of the FBI, so that the matter can be efficiently and effectively tracked and prepared for possible referral to the USAO.
 2. As promptly as possible, notify the USAO and the OCFI, whenever the FBI decides to open, pursue or decline the investigation of a case referred by the OCFI.
 3. Along with the USAO, develop and provide relevant money laundering and related financial crimes training for OCFI personnel.

C. OFFICE OF THE COMMISSIONER OF FINANCIAL INSTITUTIONS COMMONWEALTH OF PUERTO RICO:

Pursuant to Act No. 4 of October 11, 1985, as amended, known as the "Financial Institutions Commissioner's Office Act," the OCFI has the responsibility to regulate, supervise, and oversee the financial system in Puerto Rico, and the strict compliance with all applicable laws and regulations. It is therefore understood and agreed that the OCFI shall:

1. Recognize that the USAO and the FBI have primary investigative and prosecutorial responsibility regarding violations of federal law involving money laundering and related financial crimes.
2. Refer to the USAO and the FBI all cases where a reasonable suspicion of a violation of federal law arises involving money laundering and related financial crimes matters. Any pertinent information will be referred to the FBI within a reasonable period of time.
3. Assist the USAO and the FBI in any case that has been referred. The referral of a case shall not have any effect on the ability of the OCFI to discharge its constitutional and statutory responsibilities.

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4. In the event that a strictly local matter is developed by the OCFI, it will be incumbent on the OCFI to refer the same to local authorities as prescribed by existing law and practice. Furthermore, if local and federal authorities have concurrent jurisdiction, the OCFI may refer the matter to both local and federal authorities, and disclose said joint referral to each.
 5. On a case-by-case basis, in any matter referred to the USAO for prosecution, if requested by the USAO and approved by the OCFI, cross-designate member(s) of OCFI's legal department as Special Assistant U.S. Attorneys.

VI. DISPUTE RESOLUTION

Any dispute arising out of this MOU shall be brought to the attention of the designated point of contact for each of the signatory parties. If it is not resolved by the points of contact, the matter will be referred to the Commissioner of Financial Institutions of Puerto Rico, the United States Attorney and the Special Agent In-Charge of the FBI, for a final determination.

VII. AMENDMENT

This MOU may be amended by deletion or modification of any provision contained herein, or by the addition of new provisions, after written concurrence of all parties to the MOU.

VIII. TERMINATION

This MOU will remain in effect until terminated by any party to the MOU, provided such notice of termination is in writing and signed by the appropriate agency official that approved the MOU.

IX. NO RIGHTS CREATED

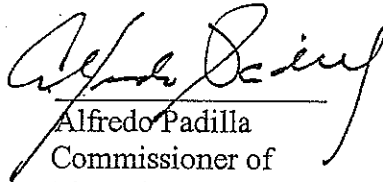
This document is an internal document only intended for use of the signatory parties and should not be disseminated outside their offices. Furthermore, nothing in this document is intended to nor does it create any right in any defendant or any third party.

X. APPROVAL

This MOU will take effect immediately upon signature of all parties identified below. Any prior documents or agreements between the parties regarding the matters covered in this MOU are superseded effective on the date this document is signed.



Rosa Emilia Rodríguez-Vélez
United States Attorney
District of Puerto Rico
Date: 4/01/08



Alfredo Padilla
Commissioner of
Financial Institutions
Date:



Luis Fraticelli
Special Agent-in-Charge
Federal Bureau of
Investigation
San Juan, Puerto Rico
Date: 4/1/08