

**MEMORANDUM OF UNDERSTANDING BETWEEN THE OFFICE OF THE  
COMMISSIONER OF FINANCIAL INSTITUTIONS OF THE COMMONWEALTH OF  
PUERTO RICO AND THE OFFICE OF THE UNITED STATES TRUSTEE FOR THE DISTRICT  
OF PUERTO RICO ON THE REFERRAL, INVESTIGATION, AND PROSECUTION OF  
CASES INVOLVING FINANCIAL CRIMES**

**I. PURPOSE**

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

**II. DESCRIPTION OF PROBLEM**

The complexity of investigations involving bankruptcy fraud, 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 OCFI and the OUST remain committed to the development of investigations that target bankruptcy fraud, 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 OCFI and the OUST, 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 bankruptcy fraud, 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 bankruptcy fraud, 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. § 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 bankruptcy fraud, 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 bankruptcy fraud, money laundering, investment fraud, financial institution fraud, mortgage fraud, and related financial crimes in Puerto Rico.

#### V. IMPLEMENTATION

The OCFI and the OUST 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 bankruptcy fraud, money laundering and financial crimes in Puerto Rico. In accordance with the terms of this MOU, the OUST 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. OFFICE OF THE UNITED STATES TRUSTEE

Pursuant to 28 U.S.C. §586 (a)(3)(f) and 18 U.S.C. §3057(a), the OUST has the primary responsibility and jurisdiction to identify and refer to the United States Attorney's Office (USAO) and all other federal agencies with investigative jurisdiction all violations of federal law involving bankruptcy crimes, and assist in their investigation. It is therefore understood that the OUST shall:

1. Coordinate this investigative responsibility with the designated point of contact in the OCFI, as appropriate.
2. Refer to the OCFI all cases where a reasonable suspicion of a violation of federal or state law involving bankruptcy fraud and related financial crimes arises. Any pertinent information will be referred to the OCFI within a reasonable period of time.
3. In conjunction with the OCFI, identify cases that merit a federal response so that they can be referred to the USAO for prosecution.
4. Receive and facilitate the referral of cases from the OCFI.

5. Document any OCIF case referral so that the matter can be efficiently and effectively tracked and prepared for possible referral to the USAO.
6. Assist the OCIF in any case that has been referred. The referral of a case shall not have any effect on the ability of the OUST to discharge its constitutional and statutory responsibilities.
7. Share all relevant information with the OCIF in the investigation of such matters.
8. Develop and provide relevant bankruptcy fraud and related financial crimes training for OCIF personnel.

**B. 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 OCIF has the responsibility to regulate, supervise and oversight the financial system in Puerto Rico, and their strict compliance with all applicable laws and regulations. It is therefore understood and agreed that the OCIF shall:

1. Coordinate this investigative responsibility with the designated point of contact in the OUST, as appropriate.
2. Refer to the OUST all cases where a reasonable suspicion of a violation of federal law involving bankruptcy fraud arises. Any pertinent information will be referred to the OUST within a reasonable period of time.
3. In conjunction with the OUST, identify cases that merit a federal response so that they can be referred to the USAO for prosecution.
4. Receive and facilitate the referral of cases from the OUST where the OCIF has investigative jurisdiction.
5. Document any OUST case referral so that the matter can be efficiently and effectively tracked and prepared for possible referral to the USAO.
6. Assist the OUST in any case that has been referred. The referral of a case shall not have any effect on the ability of the OCIF to discharge its constitutional and statutory responsibilities.
7. Share all relevant information with OUST in the investigation of such matters.
8. Develop and provide relevant financial crimes training for OUST personnel.

VII. 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 and the Assistant U.S. Trustee for a final determination.

VIII. 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.

IX. TERMINATION

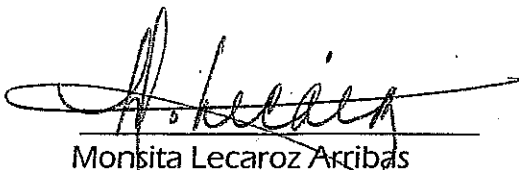
This MOU will remain in effect until terminated by any party to the MOU, provided such notice of termination is in writing and signed by the appropriate agency official that approved the MOU.

X. 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.

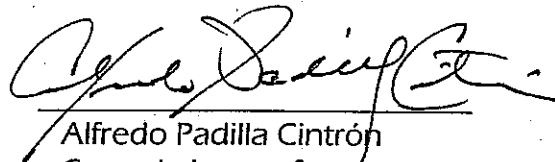
XI. APPROVAL

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.



Monsita Lecaroz Arribas  
Assistant United States Trustee  
District of Puerto Rico

Date: 3/13/08



Alfredo Padilla Cintrón  
Commissioner of  
Financial Institutions

Date: March 13, 2008